

Blanchard	Kennard
Bridges	Kothmann
Brooks	Mauzy
Christie	McKool
Connally	Moore
Creighton	Ratliff
Grover	Schwartz
Hall	Sherman
Harrington	Wallace
Harris	Watson
Herring	Wilson
Hightower	Word
Jordan	

Nays—2

Patman	Snelson
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Memorial Resolution

S. R. No. 1166—By Senator Schwartz: Memorial resolution for John W. McGaffey.

Welcome and Congratulatory Resolutions

H. C. R. No. 135—Extending warmest congratulations to President Harry S. Truman on his 87th birthday. (Amended.)

S. R. No. 1158—By Senator Beckworth: Extending commendation to C. Quentin Abernathy.

S. R. No. 1159—By Senator Sherman: Extending welcome to Perryton High School Band.

S. R. No. 1160—By Senator Aikin: Extending welcome to S. M. Weiss.

S. R. No. 1162—By Senator Mauzy: Extending welcome to Mr. and Mrs. J. R. Schmidt and family of Grand Prairie.

S. R. No. 1163—By Senator Word: Extending welcome to Texas History and Government classes from Cleburne High School.

S. R. No. 1164—By Senator Herring—Extending welcome to sixth grade class, Baker Elementary School.

S. R. No. 1165—By Senator Hall: Designating David Hedges as honorary page of Senate for today.

S. R. No. 1167—By Senator Schwartz: Extending congratulations to Mrs. Jake Kellner.

Adjournment

On motion of Senator Aikin the Senate at 12:10 o'clock p.m. adjourned until 11:00 o'clock a.m. Monday, May 10, 1971.

SIXTY-SEVENTH DAY

(Monday, May 10, 1971)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment, and was called to order by the President Pro Tempore.

The roll was called and the following Senators were present:

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally	Watson
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A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Thursday, May 6, 1971, was dispensed with and the Journal was approved.

Leaves of Absence

Senator Watson was granted leave of absence for today on account of important business on motion of Senator Aikin.

Senator Connally was granted leave of absence for today on account of important business on motion of Senator Aikin.

Message From the House

Hall of the House of Representatives,
Austin, Texas,
May 10, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. J. R. No. 7, Proposing an amendment to Article VIII, Section 1-b, of the Texas Constitution, to provide an exemption of \$3,000 of the value of residence homesteads of all persons 65 years of age or older from all ad valorem taxes levied by any county, city, town, school district, or other political subdivision or instrumentality of the State. (As Amended.)

H. B. No. 89, A bill to be entitled "An Act relating to the liability for civil damages of a person legally qualified to practice medicine who administers emergency care under certain conditions in a hospital emergency room; amending Section 1, Chapter 317, Acts of the 57th Legislature, Regular Session, 1961 (Article 1a, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 602, A bill to be entitled "An Act relating to the creation, organization, powers, duties, and procedures of the Texas Board of Athletic Trainers to license athletic trainers; providing penalties; providing effective dates; and declaring an emergency."

H. J. R. No. 8, Providing that bills for raising revenue may originate in either house of the Legislature; and amending Article III, Section 33, of the Constitution of Texas.

H. J. R. No. 57, Proposing an amendment to Article VII, Constitution of the State of Texas, by adding a Section 6b to permit the commissioners court of a county to reduce the county permanent school fund and to provide for the per scholastic distribution and use of the money obtained from the reduction.

H. C. R. No. 137, Congratulating the Air Force ROTC Detachment 820, at Texas Tech University, on receiving the Air Force Outstanding Unit Award.

H. B. No. 450, A bill to be entitled "An Act relating to voter registration, voter identification, and other procedures in voting, and the manner of evidencing affiliation with a political party; containing penal provisions; amending the Texas Election Code as follows: adding Sections 56a through 56x; adding Subdivision 1b to Section 37 (Article 5.05, Vernon's Texas Election Code); amending Sections 89 and

90 (Article 8.07 and 8.08); amending Subsections (4), (5), and (6), Section 179a (Article 13.01a); amending Sections 43a and 51b (Articles 5.11a and 5.19b) until repealed; repealing Sections 41a through 55a (Articles 5.09a through 5.23a); making the Act effective only upon certain court actions or upon the adoption of a constitutional amendment; and declaring an emergency."

H. B. No. 1440, A bill to be entitled "An Act relating to financial assistance for construction of waste water treatment facilities; and declaring an emergency."

H. B. No. 1539, A bill to be entitled "An Act relating to the liability of voluntary firemen and volunteer fire departments for damage done to private property; and declaring an emergency."

S. C. R. No. 15, Granting permission for private schools to become members of the University Interscholastic League.

S. B. No. 233, A bill to be entitled "An Act to be known as the Insurance Holding Company System Regulatory Act, relating to regulation of insurance holding companies, subsidiaries, and affiliates, and their transactions with insurance companies; and declaring an emergency."

(With Amendments.)

S. B. No. 244, A bill to be entitled "An Act repealing Chapter 17, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, relating to occupation taxes applicable to stores and mercantile establishments; and declaring an emergency."

S. B. No. 249, A bill to be entitled "An Act relating to the recording and re-recording of livestock brands and marks; and declaring an emergency."

(With Amendments.)

S. B. No. 329, A bill to be entitled "An Act amending Chapter 478, Acts 1951, 52nd Legislature, (Article 8247a, Section 7a, Vernon's Texas Civil Statutes), to provide that any navigation district which heretofore or hereafter shall have constructed, purchased or otherwise acquired, or shall plan to construct, purchase or

otherwise acquire, any facility by the use of revenue obligations issued pursuant to the provisions of Chapter 111, Acts 1933, 43rd Legislature, First Called Session, as amended, may place the management of said facility in a Board of Trustees during the time such obligations or refunding obligations are secured by pledge of revenues; validating resolutions and indentures heretofore adopted creating such Boards or making provision therefor; and declaring an emergency."

(With Amendments.)

S. B. No. 398, A bill to be entitled "An Act providing for a minimum bovine brucellosis blood test; amending Article 1525B, Texas Penal Code, as amended; providing a Severability Clause; and declaring an emergency."

(With Amendments.)

S. B. No. 543, A bill to be entitled "An Act relating to the fees charged by the Board of Vocational Nurse Examiners; amending Sections 7, 8, and 9, Chapter 118, Acts of the 52nd Legislature, 1951, as amended (Article 4528c, Vernon's Texas Civil Statutes); and declaring an emergency."

(With Amendments.)

S. B. No. 938, A bill to be entitled "An Act exempting certain construction projects of the Texas Agriculture Department from Building Commission action; amending Section 3, Chapter 455, Acts of the 59th Legislature, 1965 (codified as Article 678f, Vernon's Texas Civil Statutes); and declaring an emergency."

(With Amendments.)

All necessary rules suspended, and the Conference Committee report on Senate Bill No. 652 adopted by a vote of 142 Ayes, 1 No.

H. B. No. 139, A bill to be entitled "An Act authorizing the Texas Department of Mental Health and Mental Retardation to establish a treatment program using synthetic narcotic drugs for drug-dependent persons; and declaring an emergency."

H. B. No. 197, A bill to be entitled "An Act amending Section 4a and Section 9 of Chapter 120, Acts of the 60th Legislature, Regular Session, 1967, relating to the Angleton-Danbury Hospital District of Brazoria

County, Texas; reciting proof of publication of constitutional notice; providing a severability clause; and declaring an emergency."

H. B. No. 239, A bill to be entitled "An Act providing for the compensation of the official court reporter of the 49th Judicial District Court of Texas; providing the manner of payment; and declaring an emergency."

H. B. No. 243, A bill to be entitled "An Act amending the Texas Motor Vehicle Safety-Responsibility Act by adding Section 4A (Article 6701h, Vernon's Texas Civil Statutes); relating to providing for impounding by the Department of Public Safety of the motor vehicles operated by persons not domiciled within the United States in certain instances following certain accidents; and declaring an emergency."

H. B. No. 244, A bill to be entitled "An Act relating to persons not required to obtain a license to fish; amending Section 2, Chapter 239, Acts of the 55th Legislature, Regular Session, 1957 (Article 4032b-1, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 246, A bill to be entitled "An Act authorizing a self-liquidating navigation district coming under the scope of Chapter 27, Acts of the 42nd Legislature, 3rd Called Session, 1932, to accept bid bonds executed by a corporate surety in lieu of the certified check currently required; decreasing the limitation on a district's authority to contract for improvements to be paid for in partial payments as the work progresses from an amount not to exceed in the aggregate 80 percent of the contract price of the total amount of the work done to an amount not to exceed 90 percent of the contract price of the total amount of the work done; authorizing a district to secure temporary short-term financing and to issue purchase money notes in the acquisition of certain land; amending Sections 67, 71, and 83, Acts of the 42nd Legislature, 3rd Called Session, 1932 (Article 8263e, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 260, A bill to be entitled "An Act amending Section 5, Chapter 55, Acts of the 61st Legislature, Regular Session, 1969 (Article 5444a, Vernon's Texas Civil Statutes), re-

lating to appointment and term of Director of Legislative Reference Library; and declaring an emergency."

H. B. No. 363, A bill to be entitled "An Act relating to the creation of the County Court at Law of Angelina County; providing an effective date; providing for the appointment of the initial judge of the court; and declaring an emergency."

H. B. No. 418, A bill to be entitled "An Act relating to the annual salaries of assistants to the county school superintendent in certain counties; and declaring an emergency."

H. B. No. 425, A bill to be entitled "An Act relating to regulating the weapons that may be used to hunt deer in Marion County; providing that the landowner or lessee may approve the means of hunting deer; amending Section 5 and repealing Section 6, Chapter 113, Acts of the 52nd Legislature, 1951; and declaring an emergency."

H. B. No. 428, A bill to be entitled "An Act repealing Chapter 298, Acts of the 61st Legislature, Regular Session, 1969 (Article 978f-5b, Vernon's Texas Penal Code), relating to fish farming; and declaring an emergency."

H. B. No. 467, A bill to be entitled "An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as 'Green Public Utility District'; etc.; and declaring an emergency."

H. B. No. 509, A bill to be entitled "An Act relating to providing for additional compensation for the district judges of the 47th, 108th, and 181st Judicial Districts of Texas; amending Chapter 355, Acts of the 58th Legislature, 1963 (Article 6819a-36, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 511, A bill to be entitled "An Act relating to the employment and salaries of the county attorney and assistant county attorneys and investigators, county judges and judges of the county courts at law in certain counties; amending Chapter 484, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 3886b-1, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 512, A bill to be entitled "An Act authorizing the commissioners court in certain counties to fix the compensation of all chief deputies, deputies, assistants, clerks, and secretaries of the county officials in such county, except assistant county attorneys; providing a maximum compensation for each such chief deputy, deputy, assistant, clerk or secretary; repealing all laws or parts of laws in conflict herewith; and declaring an emergency."

H. B. No. 548, A bill to be entitled "An Act exempting from state college and university tuition and fees the dependent children of Texas military personnel missing in action or taken prisoner of war; and declaring an emergency."

H. B. No. 576, A bill to be entitled "An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as 'Holiday Hills Public Utility District'; etc.; and declaring an emergency."

H. B. No. 636, A bill to be entitled "An Act relating to the exemption from insurance laws of reciprocal or inter-insurance exchanges; amending Article 19.12, Texas Insurance Code, as amended; and declaring an emergency."

H. B. No. 726, A bill to be entitled "An Act providing for the compensation of the official shorthand reporters of the 2nd and 145th Judicial Districts; providing the manner of payment; repealing Chapter 192, Acts of the 59th Legislature, Regular Session, 1965, and Chapter 36, Acts of the 61st Legislature, Regular Session, 1969 (Article 2326j-41, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 750, A bill to be entitled "An Act relating to the method of payment of sums in certain circumstances to the Employees Retirement System of Texas; amending Section 4, Chapter 352, Acts of the 50th Legislature, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 756, A bill to be entitled "An Act prescribing compensation for county officials in certain counties; amending Chapter 427, Acts of the

54th Legislature, 1955, as amended (Article 3883i, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 821, A bill to be entitled "An Act relating to the method by which a person may establish an exemption from jury service; providing penalties for falsely claiming an exemption; amending Section 1, Article 2137, and Article 2121, Revised Civil Statutes of Texas, 1925, as amended; amending Article 35.04, Code of Criminal Procedure, 1965; and declaring an emergency."

H. B. No. 840, A bill to be entitled "An Act providing that certain communications by a patient who has voluntarily submitted to treatment or is being examined for admission to voluntary treatment for drug abuse shall be privileged; amending the Code of Criminal Procedure, 1965, by amending Article 38.10 and by adding Article 38.101; and declaring an emergency."

H. B. No. 844, A bill to be entitled "An Act relating to the office of ex-officio county school superintendents in certain counties; and declaring an emergency."

H. B. No. 885, Relating to the creation, establishment, maintenance, financing, powers, duties, and operation of conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution; and declaring an emergency."

H. B. No. 927, A bill to be entitled "An Act amending Chapter 42, Acts of the Regular Session of the 61st Legislature; authorizing the issuance of revenue bonds to provide hospital facilities for hospital districts which are in counties containing a population of 200,000 or more according to the last preceding Federal census; enacting other provisions relating to the subject; prescribing a severability provision; and declaring an emergency."

H. B. No. 933, A bill to be entitled "An Act relating to the control, supervision, and use of the State Cemetery, and the use of other state property as an interment site; amending Article 678, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency."

H. B. No. 986, A bill to be entitled "An Act including Fannin County under the provisions of the Uniform Wildlife Regulatory Act; amending Section 1 of the Uniform Wildlife Regulatory Act, as amended (Article 978j-1, Vernon's Texas Penal Code); and declaring an emergency."

H. B. No. 995, A bill to be entitled "An Act changing the title of the presiding officer of corporation courts from 'recorder' to 'judge of the municipal court'; amending Article 1196, Revised Civil Statutes of Texas, 1925; and declaring an emergency."

H. B. No. 1015, A bill to be entitled "An Act authorizing the commissioner of the General Land Office to convey to the United States government any right, title, or interest of the State of Texas in certain sections of land situated in the Big Bend National Park at an appraised price or to trade any right, title, or interest of the State of Texas in those sections of land in exchange for other land of equal value belonging to the United States government on an appraised value basis; and declaring an emergency."

H. B. No. 1043, A bill to be entitled "An Act relating to the establishment of the Northeast Texas Juvenile Board, having jurisdiction in the counties of Bowie, Cass, Red River, Morris, and Titus; maintaining the status of juvenile probation officers in those counties on the effective date of this Act; suspending the operation of the juvenile boards existing in those counties; and declaring an emergency."

H. B. No. 1068, A bill to be entitled "An Act adding Bailey County to the list of counties in which petitions may be made to the commissioners court to permit cattle to run at large; amending Article 6954, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency."

H. B. No. 1119, A bill to be entitled "An Act amending Section 9 of Chapter 222, Acts of the 61st Legislature, State of Texas, Regular Session, 1969 (Article 8280-416, Vernon's Texas Civil Statutes) by adding the power and prescribing procedures for adding certain territory to Harris County Utility District No. 4 which now is within another conservation and reclamation district; providing for a pe-

tition for such addition, a hearing on said petition, an election for the proposition of ratification of said addition and any bonds and taxes theretofore voted or additional bonds; providing for the continuing taxation of such territory to discharge indebtedness of the district in which it was originally contained; providing that land may be annexed in the manner provided by Article 7930-2, Section 2, V.T.C.S.; providing a severability clause; providing that this Act shall be cumulative of all other laws relating to the district; finding that the requirements of Article 16, Section 59(d) of the Constitution of Texas have been accomplished; providing a severability clause; and declaring an emergency."

H. B. No. 1146, A bill to be entitled "An Act creating and establishing a conservation and reclamation district under and essential to the purposes of Article 16, Section 59 of the Constitution of Texas to be known as 'Harris County Utility District No. 16'; etc.; and declaring an emergency."

H. B. No. 1204, A bill to be entitled "An Act relating to including Concho County within the 119th Judicial District; amending Section 5, Chapter 367, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 199 (119), Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1206, A bill to be entitled "An Act prescribing compensation for certain county and district officials in certain counties; amending Chapter 427, Acts of the 54th Legislature, 1955, as amended (Article 3883i, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1226, A bill to be entitled "An Act relating to the compensation to be paid from county funds to District and Criminal District Court Judges serving in certain counties; amending Section 1, Chapter 299, Acts of the 59th Legislature, Regular Session, 1965 (codified as Article 6819a-19b, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1270, A bill to be entitled "An Act amending Chapter 7 of the Insurance Code of Texas (Acts 1951, 52nd Legislature, Chapter 491, p. 868), as the same has been heretofore

amended, by adding thereto a new article to be identified as Article 7.02, permitting the withdrawal of duplicate or excessive deposits made with the State Treasurer by certain insurance companies under prior or existing statutory provisions; specifying the circumstances upon which the Commissioner of Insurance shall authorize such withdrawals; providing for an effective date; and declaring an emergency."

H. B. No. 1272, A bill to be entitled "An Act extending to November 1, 1971, the date for filing claims to water rights with the Texas Water Rights Commission; amending Subsection (c), Section 4, Chapter 45, Acts of the 60th Legislature, Regular Session, 1967 (Article 7542a, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1304, A bill to be entitled "An Act relating to the salaries of county officials in certain counties; adding Subsection (c) to Section 8, Chapter 427, Acts of the 54th Legislature, 1955, as amended (Article 3883i, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1327, A bill to be entitled "An Act relating to the sale of imperfect safety glass for motor vehicles; amending Section 136, Chapter 421, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6701d, Vernon's Texas Civil Statutes), by adding Subsection (d); and declaring an emergency."

H. B. No. 1339, A bill to be entitled "An Act creating and establishing a conservation and reclamation district under Article XVI, Section 59, of the Constitution of Texas, to be known as Cibolo Creek Municipal Authority, comprising the territory and property described herein; constituting the same a governmental agency and body politic and corporate and a political subdivision of the state; making certain findings in connection with the creation of the district; prescribing the rights, powers, privileges and duties of said district and its board of directors; prescribing the purpose for which bonds may be issued, and the terms and conditions for their issuance and the sale thereof; declaring the district essential; enacting provisions incident and relating to the subject; providing a savings clause; and declaring an emergency."

H. B. No. 1352, A bill to be entitled "An Act to amend and reenact Chapter 274, page 406, Section 1, Acts of the 48th Legislature, so that an additional period is provided in which practicing architects who were practicing on May 22, 1937, may register and receive a certificate without examination; and declaring an emergency."

H. B. No. 1403, A bill to be entitled "An Act relating to the additional compensation allowed county and district judges for service on the Angelina, Cherokee and Nacogdoches County Juvenile Boards; amending Section 2, Chapter 246, Acts of the 55th Legislature, Regular Session, 1957 (Article 5139T, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1407, A bill to be entitled "An Act amending Chapter IV, Article 1 of the Texas Banking Code of 1943, Acts of the 48th Legislature, Regular Session, 1943, as amended; requiring notice to the Commissioner by the transferee in certain cases where stock of a state bank is transferred, and providing punishment for violations; providing for severability; providing that all laws or parts of laws which are in conflict with this Act are repealed or modified to the extent of such conflict only; and declaring an emergency."

H. B. No. 1413, A bill to be entitled "An Act providing that the county clerk or district clerk may destroy certain records, ballots, stubs, lists, or papers by shredding; and declaring an emergency."

H. B. No. 1437, A bill to be entitled "An Act relating to eligibility of candidates for all elected public offices of cities of any class; repealing all laws and parts of laws in conflict with the provisions of this act to the extent of the conflict; providing for severability; and declaring an emergency."

H. B. No. 1479, A bill to be entitled "An Act relating to the appointment and compensation of the official shorthand reporters of the District Courts of Travis County; amending Section 1, Chapter 394, Acts of the 60th Legislature, Regular Session, 1967 (Article 2326j-3a, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1525, A bill to be entitled "An Act relating to the jurisdiction of the County Court at Law No. 1, the County Court at Law No. 2, and the Court of Domestic Relations, all of Nueces County, Texas; prescribing the authorities and jurisdiction of each and making adjustments in such jurisdiction in certain legal categories; redefining the jurisdiction of said courts and making provisions for the organization and procedure therein; increasing the compensation of the judges of said courts; providing for severability; repealing all laws or parts of laws in conflict herewith; and declaring an emergency."

H. B. No. 1528, A bill to be entitled "An Act authorizing the Board of Regents of The University of Texas System to contract with any political subdivisions of the State of Texas located in Ector County for the construction and operation of athletic, recreational, cultural and/or civic facilities on land owned by or for the benefit of The University of Texas of the Permian Basin and authorizing the Board of Regents of The University of Texas System to contract with any entity for the construction and operation of utility plants, student housing, student/staff service facilities and facilities related to the foregoing on land owned by or for the benefit of The University of Texas of the Permian Basin; providing for severability; repealing laws in conflict; and declaring an emergency."

H. B. No. 1600, A bill to be entitled "An Act relating to the salaries of deputies, assistants, and clerks of district, county, or precinct officers in certain counties; and declaring an emergency."

H. B. No. 1601, A bill to be entitled "An Act relating to the compensation of the official shorthand reporters for the 36th and 156th Judicial Districts; amending Section 1, Chapter 470, Acts of the 60th Legislature, Regular Session, 1967 (Article 2326j-59, Vernon's Texas Civil Statutes); amending Section 1, Chapter 52, Acts of the 61st Legislature, Regular Session, 1969 (Article 2326j-68, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1608, A bill to be entitled "An Act relating to the office of bailiff of the 71st District Court; and declaring an emergency."

H. B. No. 1620, A bill to be entitled "An Act creating a conservation and reclamation district under the provision of Article XVI, Section 59, Constitution of Texas, to be known as Varner Creek Utility District of Brazoria County, Texas; etc.; and declaring an emergency."

H. B. No. 1622, A bill to be entitled "An Act relating to the compensation of certain county officials in certain counties; amending Subsection (b), Section 8, Chapter 427, Acts of the 54th Legislature, 1955, as amended (Article 3883i, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1636, A bill to be entitled "An Act relating to the compensation of the judge of the County Court at Law of Taylor County; amending Section 12, Chapter 177, Acts of the 54th Legislature, 1955 (Article 1970-343, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1638, A bill to be entitled "An Act relating to the compensation of the judge of the district court in the 143rd Judicial District, and declaring an emergency."

H. B. No. 1644, A bill to be entitled "An Act relating to the salaries of justices of the peace in certain counties; and declaring an emergency."

H. B. No. 1679, A bill to be entitled "An Act relating to the fees paid to directors of the Franklin County Water District; amending Subsection (f), Section 3, Chapter 719, Acts of the 59th Legislature, Regular Session, 1965 (Article 8280-341, Vernon's Texas Civil Statutes); and declaring an emergency."

S. B. No. 40, A bill to be entitled "An Act providing for the compensation to District Attorneys in certain counties; prohibiting their engaging in the private practice of law; and declaring an emergency."

(With Amendments.)

S. B. No. 67, A bill to be entitled "An Act amending Section 14, Acts 1937, 45th Legislature, Ch. 502, as amended (codified as Article 6674s, Section 14, Vernon's Civil Statutes); by deleting therefrom the requirement that reports of Highway Department employment physical examinations be notarized by the examining physician; and declaring an emergency."

S. B. No. 136, A bill to be entitled "An Act amending the following numbered sections and subsections of Chapter 127, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228g, Vernon's Texas Civil Statutes), viz.: amending paragraph (a), Subsection 1 of Section IV of said Act; amending Subsection 1 of Section VI of said Act; amending Subsection 11 of Section VI of said Act; and amending Subsection 7 of Section VIII of said Act; declaring the Act to be severable; and declaring an emergency."

S. B. No. 232, A bill to be entitled "An Act amending Statutes affecting the appointment of members of the Board of Directors of the Lower Colorado River Authority; and declaring an emergency."

S. B. No. 316, A bill to be entitled "An Act amending Statutes exempting the operator of certain motor vehicles from the requirement of obtaining a commercial operators license; and declaring an emergency."

S. B. No. 338, A bill to be entitled "An Act relating to creation of the Real Estate Research Center at Texas A&M University; increasing the fees for certain real estate license renewals and providing for disposition of the fees; amending Sections 22 and 24 of the Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes); providing for severability; and declaring an emergency."

(With Amendments.)

S. B. No. 357, A bill to be entitled "An Act relating to the salaries of purchasing agents in certain counties; etc.; and declaring an emergency."

(With Amendments.)

S. B. No. 372, A bill to be entitled "An Act relating to the capture, possession, and use of certain native raptors in the sport of falconry; providing for permit; providing for license; providing for penalty and declaring an emergency."

S. B. No. 442, A bill to be entitled "An Act relating to the salaries of county officials in certain counties; etc.; and declaring an emergency."

(With Amendments.)

S. B. No. 518, A bill to be entitled "An Act requiring the assumption of pension liabilities by any governmental entity which annexes, merges, or absorbs a subdivision; and declaring an emergency."

S. B. No. 527, A bill to be entitled "An Act relating to the student loan program; providing for the extension of the repayment period on student loans and the promulgation of rules and regulations necessary for participation in federal student loan programs; etc.; and declaring an emergency."

S. B. No. 612, A bill to be entitled "An Act to amend Statutes to give the State Board of Insurance the power to adopt rules and regulations relating to the safe operation of mobile service units; and declaring an emergency."

(With Amendments.)

S. B. No. 679, A bill to be entitled "An Act relating to authorizing the Parks and Wildlife Department to permit the capture of alligators and marine mammals for use and display in public or commercial aquariums; amending Article 913, Penal Code of Texas, 1925, as amended; and declaring an emergency."

S. B. No. 729, A bill to be entitled "An Act amending Statutes by authorizing the commissioners court of Jefferson County, Texas, to fix the salary of the commissioners of Jefferson County Drainage District No. 7; and declaring an emergency."

S. B. No. 757, A bill to be entitled "An Act relating to regulating the use of the term 'Texas Agricultural Products' and symbols connected with that term; providing sanctions; and declaring an emergency."

S. B. No. 807, A bill to be entitled "An Act relating to the appointment, powers, and duties of the county historical survey committee; amending Chapter 152, Acts of the 58th Legislature, Regular Session, 1963; and declaring an emergency."

The House has concurred in Senate amendments to House Bill No. 730 by vote of 100 Ayes, 46 Noes, 1 present not voting.

The House has concurred in Senate amendments to House Bill No. 58 by non-record vote.

The House has concurred in Senate amendments to House Bill No. 718 by vote of 142 Ayes, 3 Noes.

The House has concurred in Senate amendments to House Bill No. 1610 by vote of 136 Ayes, 10 Noes.

H. B. No. 1786, A bill to be entitled "An Act relating to the effective date of Chapter 54 of the Water Code; amending Section 4, House Bill No. 1458, Acts of the 62nd Legislature, Regular Session, 1971; and declaring an emergency."

The House has concurred in Senate amendments to House Bill No. 186 by vote of 135 Ayes, 1 Noes.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Reports of Standing Committees

Senator Mauzy submitted the following report for the Committee on Education:

C. S. S. B. No. 526 (Read first time).

Senator Hightower submitted the following report for the Committee on Administration:

S. B. No. 627.

Senator Wilson submitted the following reports for the Committee on Constitutional Amendments:

S. J. R. No. 53.

S. J. R. No. 41.

H. J. R. No. 31.

Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

S. B. No. 237.

H. B. No. 53.

S. B. No. 982.

S. B. No. 981.

S. B. No. 980.

H. B. No. 292.

Motion in Writing

Senator Hall submitted the following Motion in Writing:

Hon. Ben Barnes, President of the Senate.

Notice is hereby given of the intent to hold a Local and Uncontested Bills Calendar on Thursday, May 13, 1971, at 9:15 a.m.

Ralph M. Hall
Chairman
Local and Uncontested Calendar

The Motion in Writing was read and adopted.

Senate Bills on First Reading

Senator Patman moved that Senate Rule 108 and Section 5 of Article III of the State Constitution be suspended to permit the introduction at this time, the following bills, the provisions of which were explained.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally Watson

The following bills were then introduced, read first time and referred to the Committee indicated:

By Senator Herring:

S. B. No. 984, A bill to be entitled "An Act amending Sections 2, 3, and 17, Chapter 136, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 1970-324, Vernon's Texas Civil Statutes), and Sections 2, 3, and 17, Chapter 127, Acts of the 58th Legislature, 1963 (Article 1970-324a, Vernon's Texas Civil Statutes), and adding an Article 1970-324d to Chapter 5, Title 41, Revised Civil Statutes of Texas, 1925, to provide for the jurisdiction of the county court and the county courts at law of Travis County and the salaries of the

judges of the county courts at law; and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senator Bates:

S. B. No. 985, A bill to be entitled "An Act relating to the establishment of public water supply systems in certain areas in the state; providing for the Texas Water Quality Board to administer this Act; declaring this Act to be cumulative of other laws on the same subject; providing for severability; and declaring an emergency."

To Committee on Water and Conservation.

By Senator Patman:

S. B. No. 986, A bill to be entitled "An Act to be known as the Act for development of employment, industrial and health resources of 1971 relating to the promotion of industrial development, employment, public health and research by certain political subdivisions of the State of Texas; providing the procedures to be followed and making certain findings with respect to the need for such facilities; and declaring an emergency."

To Committee on Commerce and Industry.

Senate Resolution 1168

Senator Sherman offered the following resolution:

S. R. No. 1168, Providing for the appointment of an Interim Committee on Texas Population Distribution to be appointed by the Lieutenant Governor.

The resolution was read and referred to the Committee on Administration.

Senate Bill 678 Re-Referred

On motion of Senator Schwartz and by unanimous consent, S. B. No. 678 was withdrawn from the Committee on Jurisprudence and re-referred to the Committee on State Affairs.

Senate Bill 572 on Second Reading

On motion of Senator Moore and by unanimous consent, the regular order of business was suspended to take up for consideration at this

time on its second reading and passage to engrossment:

S. B. No. 572, A bill to be entitled "An Act amending statutes relating to age requirements for retirement of judges; etc.; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 572 on Third Reading

Senator Moore moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 572 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally	Watson
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The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 639 on Second Reading

On motion of Senator Moore and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 639, A bill to be entitled "An Act relating to the denial, refusal, suspension, or revocation of the licenses of certain insurance agents; etc.; and declaring an emergency."

The bill was read second time.

Senator Moore offered the following Committee Amendment to the bill:

Amend S. B. No. 639 by striking out all of S. B. 639 below the enacting clause and substituting in lieu thereof the following:

"Section 1. Subsection (a), Section 10, Article 21.07, Texas Insurance Code, as amended, is amended to read as follows:

"(a) A license may be denied, or a license duly issued may be suspended or revoked or the renewal thereof refused by the State Board of Insurance if, after notice and hearing as hereafter provided, it finds that the applicant for, or holder, of such license:

"(1) Has wilfully violated any provision of the insurance laws of this States; or

"(2) Has intentionally made a material misstatement in the application for such license; or

"(3) Has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

"(4) Has misappropriated or converted to his own use or illegally withheld money belonging to an insurance carrier or an insured or beneficiary; or

"(5) Has otherwise demonstrated lack of trustworthiness or competence to act as an agent; or

"(6) Has been guilty of fraudulent or dishonest practices; or

"(7) Has materially misrepresented the terms and conditions of any insurance policy or contract; or

"(8) Has made or issued, or caused to be made or issued, any statement misrepresenting or making incomplete comparisons regarding the terms or conditions of any insurance contract legally issued by any insurance carrier, for the purpose of inducing or attempting to induce the owner of such contract to forfeit or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or

"(9) Is not of good character or reputation; or

"(10) Has failed to reimburse the insurance carrier, within ten days after being notified by the carrier, for

that portion of refund which constitutes commissions retained by or paid to the agent on any such refund made to the insured by the carrier."

"Section 2. Subsection (a), Section 12, Article 21.07-1, Texas Insurance Code, as amended, is amended to read as follows:

"(a) A license may be denied, or a license duly issued may be suspended or revoked or the renewal thereof refused by the Life Insurance Commissioner if, after notice and hearing as hereafter provided, he finds that the applicant for, or holder of such license:

"(1) Has wilfully violated any provision of the insurance laws of this State; or

"(2) Has intentionally made a material misstatement in the application for such license; or

"(3) Has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

"(4) Has misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary; or

"(5) Has otherwise demonstrated lack of trustworthiness or competence to act as a life insurance agent; or

"(6) Has been guilty of fraudulent or dishonest practices; or

"(7) Has materially misrepresented the terms and conditions of life insurance policies or contracts; or

"(8) Has made or issued, or caused to be made or issued, any statement misrepresenting or making incomplete comparison regarding the terms or conditions of any life insurance or annuity contract legally issued by any insurer, for the purpose of inducing or attempting to induce the owner of such contract to forfeit or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or

"(9) Has obtained, or attempted to obtain such license, not for the purpose of holding himself out to the general public as a life insurance agent, but primarily for the purpose of soliciting, negotiating or procuring life insurance or annuity contracts covering himself or members of his family or business associates; or

"(10) Is not of good character or reputation; or

"(11) Has failed to reimburse the

insurance carrier within ten days after being notified by the carrier, for that portion of refund which constitutes commissions retained by or paid to the agent on any such refund made to the insured by the carrier."

"Section 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The Committee Amendment was read and was adopted.

On motion of Senator Moore and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 639 on Third Reading

Senator Moore moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 639 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally	Watson
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The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Reports of Standing Committees

By unanimous consent, Senator Hall submitted the following report for the Committee on County, District and Urban Affairs:

S. B. No. 984 (Floor report).

By unanimous consent, Senator Bates submitted the following report for the Committee on Transportation:

S. B. No. 456 (Floor report).

Senate Bill 74 on Second Reading

Senator Snelson asked unanimous consent to suspend the regular order of business and take up S. B. No. 74 for consideration at this time.

There was objection.

Senator Snelson then moved to suspend the regular order of business and take up S. B. No. 74 for consideration at this time.

The motion prevailed.

The President Pro Tempore laid before the Senate on its second reading and passage to engrossment:

S. B. No. 74, A bill to be entitled "An Act providing that Boards of Trustees of all school districts shall adopt policies specifying the duties of each of its positions of employment; providing that no employee of a school district shall be liable for certain acts incident to or within the scope of the duties of his position of employment; defining certain terms used in this Act; and declaring an emergency."

The bill was read second time.

Senator Snelson offered the following Committee Amendment to the bill:

Amend Senate Bill 74 by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. The board of trustees of each school district within this state shall adopt policies specifying the duties of each of its professional positions of employment. The board of trustees shall assign positions of employment earned under the minimum foundation program to meet the specific needs of the district.

Section 2. No professional employee of any school district within this State shall be personally liable for any act incident to or within the scope of the duties of his position of employment, and which act involves the exercise of judgment or discretion on the part of the employee, except in circumstances where professional employees use excessive force in the discipline of students.

Section 3. A "professional employee" as used herein shall include superintendents, principals, classroom teachers, supervisors, counselors, and any other person whose employment requires certification and an exercise of discretion.

Section 4. Emergency Clause. The importance of this legislation, and the crowded condition of the calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

The Committee Amendment was read.

Senator Snelson offered the following amendment to the Committee Amendment:

Amend Committee Amendment to S. B. 74, Sec. 2, by striking the period at the end of the paragraph following the word "students" and adding the following:

"or negligence resulting in bodily injury to students."

The amendment to the Committee Amendment was read and was adopted.

The Committee Amendment as amended was then adopted.

Senator Snelson offered the following Committee Amendment to the bill:

Amend Senate Bill 74, by striking out all above the enacting clause and substituting in lieu thereof the following:

"A BILL TO BE ENTITLED

An Act providing that Boards of Trustees of all school districts shall adopt policies specifying the duties

of each of its professional positions of employment; providing that Boards of Trustees assign professional positions; providing that no professional employee of a school district shall be liable for certain acts incident to or within the scope of the duties of his position of employment; defining certain terms used in this Act; and declaring an emergency."

The Committee Amendment was read and was adopted.

On motion of Senator Snelson, and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 984 Ordered Not Printed

On motion of Senator Herring and by unanimous consent S. B. No. 984 was ordered not printed.

Senate Bill 958 on Second Reading

On motion of Senator McKool and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 958, A bill to be entitled "An Act changing the name of the Texas Fine Arts Commission to the Texas Commission on the Arts and Humanities; etc.; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 958 on Third Reading

Senator McKool moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 958 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Bridges
Bates	Brooks
Beckworth	Christie
Bernal	Creighton
Blanchard	Grover

Hall	Moore
Harrington	Patman
Harris	Ratliff
Herring	Schwartz
Hightower	Sherman
Jordan	Snelson
Kennard	Wallace
Kothmann	Wilson
Mauzy	Word
McKool	

Absent—Excused

Connally	Watson
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The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally	Watson
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Senate Concurrent Resolution 92

Senator Kothmann offered the following resolution:

S. C. R. No. 92, Recalling H. B. No. 889 from the House of Representatives for certain corrections.

The resolution was read.

On motion of Senator Kothmann and by unanimous consent, the resolution was considered immediately and was adopted.

Senate Concurrent Resolution 93

Senator Kothmann offered the following resolution:

S. C. R. No. 93, Recalling H. B. No. 976 from the House of Representatives for certain corrections.

The resolution was read.

On motion of Senator Kothmann and by unanimous consent, the resolution was considered immediately and was adopted.

Co-Author of Senate Bill 946

On motion of Senator Sherman and by unanimous consent, Senator Kennard will be shown as Co-author of S. B. No. 946.

Senate Concurrent Resolution 10 on Second Reading

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time the following resolution:

S. C. R. No. 10, Granting Billy Warren (B. W.) Cody permission to sue the State.

The resolution was read.

Senator Harris offered the following Committee Amendment to the resolution:

S. C. R. 10 is hereby amended by striking the Resolving Clause and substituting the following:

RESOLVED, That nothing in this Resolution may be construed as an admission by the State of Texas, or by any of its employees, agents, departments, agencies, or political subdivisions, of liability or of the truth of any allegation asserted by the claimant, but the alleged cause of the action must be proved under the laws of this state as in other civil suits; and, be it further

RESOLVED, That nothing in this Resolution may be construed as a waiver of any defense, of law or fact, available to the State of Texas or to any of its employees, agents, departments, agencies, or political subdivisions, but every defense is specifically reserved.

The Committee Amendment was read and was adopted.

On motion of Senator Harris and by unanimous consent, the resolution was then adopted.

Senate Bill 945 Laid on Table Subject to Call

On motion of Senator Bates and by unanimous consent, S. B. No. 945 was Laid on Table Subject to Call.

Senate Bill 933 on Second Reading

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 933, A bill to be entitled "An Act prohibiting the issuance of licenses or permits to sell or serve alcoholic beverages if establishment is located on a public beach; etc.; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 933 on Third Reading

Senator Schwartz moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 933 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally Watson

The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Brooks
Bates	Christie
Beckworth	Creighton
Bernal	Grover
Blanchard	Hall
Bridges	Harrington

Harris	Patman
Herring	Ratliff
Hightower	Schwartz
Jordan	Sherman
Kennard	Snelson
Kothmann	Wallace
Mauzy	Wilson
McKool	Word
Moore	

Absent—Excused

Connally Watson

Reports of Standing Committees

By unanimous consent, Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

H. B. No. 373.

H. B. No. 446.

S. B. No. 965.

S. B. No. 966.

S. B. No. 968.

By unanimous consent Senator Kennard submitted the following report for the Committee on Public Health:

H. B. No. 1436.

By unanimous consent, Senator Bates submitted the following reports for the Committee on Transportation:

S. B. No. 935.

S. B. No. 961.

By unanimous consent, Senator Moore submitted the following report for the Committee on State Affairs:

S. B. No. 862.

By unanimous consent, Senator Connally submitted the following reports for the Committee on Parks and Wildlife:

S. B. No. 967 (Floor report).

S. B. No. 658 (Floor report).

H. B. No. 1658 (Floor report).

By unanimous consent, Senator Snelson submitted the following report for the Committee on Oil and Gas:

C. S. S. B. No. 3 (Read first time).

By unanimous consent, Senator Hall submitted the following report for the Committee on County, District and Urban Affairs:

H. B. No. 172 (Floor report).

(President in Chair.)

Senate Bill 961 Ordered Not Printed

On motion of Senator Bates and by unanimous consent, S. B. No. 961 was ordered not printed.

**Senate Bill 525 Laid on Table
Subject to Call**

On motion of Senator Brooks and by unanimous consent, S. B. No. 525 was Laid on Table Subject to Call.

**Motion to Place
Senate Bill 430 on Second Reading**

Senator Hall asked unanimous consent to suspend the regular order of business and take up S. B. No. 430 for consideration at this time.

There was objection.

Senator Hall then moved to suspend the regular order of business and take up S. B. No. 430 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—19

Bates	Jordan
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Patman
Brooks	Schwartz
Christie	Snelson
Hall	Wilson
Harrington	Word
Hightower	

Nays—10

Aikin	Kennard
Creighton	Moore
Grover	Ratliff
Harris	Sherman
Herring	Wallace

Absent—Excused

Connally Watson

Senate Bill 961 on Second Reading

On motion of Senator Bates and by unanimous consent, the regular

order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 961, A bill to be entitled "An Act validating certain actions of the Railroad Commission relating to the transportation of agricultural products in their natural state; and declaring an emergency."

The bill was read second time and passed to engrossment.

Record of Vote

Senator Schwartz asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senate Bill 961 on Third Reading

Senator Bates moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 961 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Hightower
Bates	Jordan
Beckworth	Kennard
Bernal	Kothmann
Blanchard	Mauzy
Bridges	McKool
Brooks	Moore
Christie	Patman
Creighton	Ratliff
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word

Nays—1

Schwartz

Absent—Excused

Connally

Watson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Bates
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Beckworth	Jordan
Bernal	Kennard
Blanchard	Kothmann
Bridges	Mauzy
Brooks	McKool
Christie	Moore
Creighton	Patman
Grover	Ratliff
Hall	Sherman
Harrington	Snelson
Harris	Wallace
Herring	Wilson
Hightower	Word

Nays—1

Schwartz

Absent—Excused

Connally

Watson

Bills and Resolutions Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

H. C. R. No. 132.

H. C. R. No. 133.

H. B. No. 97.

H. B. No. 326.

H. B. No. 349.

H. B. No. 498.

H. B. No. 647.

H. B. No. 676.

H. B. No. 966.

H. B. No. 1118.

H. B. No. 1162.

H. B. No. 730.

S. B. No. 111.

S. B. No. 160.

S. B. No. 457.

S. B. No. 225.

H. B. No. 1610.

H. B. No. 505.

H. B. No. 532.

H. B. No. 630.

H. B. No. 640.

H. B. No. 704.

H. B. No. 705.

H. B. No. 787.

H. B. No. 891.

H. B. No. 438.

H. B. No. 635.

H. B. No. 1704.

H. B. No. 987.

H. B. No. 1641.

H. C. R. No. 58.

H. C. R. No. 126.

H. C. R. No. 7.

House Bill on First Reading

The following bill received from the House, was read the first time and referred to the Committee indicated:

H. B. No. 933, To Committee on Commerce and Industry.

Senate Joint Resolution 7 with House Amendments

Senator Harrington called S. J. R. No. 7 from the President's table for consideration of the House amendments to the resolution:

The President laid the resolution and the following House amendments before the Senate:

Committee Amendment No. 1

Amend S. J. R. No. 7 by striking all below the resolving clause and substituting the following:

Section 1. That Article VIII, Section 1-b, of the Texas Constitution, be amended to read as follows:

"Section 1-b. (a) Three Thousand Dollars (\$3,000) of the assessed taxable value of all residence homesteads as now defined by law shall be exempt from all taxation for all State purposes.

"(b) From and after January 1, 1973, the governing body of any county, city, town, school district, or other political subdivision of the State may exempt by its own action not less than Three Thousand Dollars (\$3,000) of the assessed value of residence homesteads of persons sixty-five (65) years of age or older from all ad valorem taxes thereafter levied

by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than Three Thousand Dollars (\$3,000) as provided in the petition, of the assessed value of residence homesteads of persons sixty-five (65) years of age or over shall be exempt from ad valorem taxes thereafter levied by the political subdivision. Where any ad valorem tax has theretofore been pledged for the payment of any debt, the taxing officers of the political subdivision shall have authority to continue to levy and collect the tax against the homestead property at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created."

Section 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1972, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing that the various political subdivisions of the state may exempt not less than \$3,000 of the value of residence homesteads of all persons 65 years of age or older from ad valorem taxes under certain conditions."

Committee Amendment No. 2

Amend S. J. R. No. 7 by striking all above the resolving clause and substituting the following:

"A JOINT RESOLUTION

PROPOSING an amendment to Article VIII, Section 1-b, of the Texas Constitution, to provide that the various political subdivisions of the state may exempt not less than \$3,000 of the value of residence homesteads of all persons 65 years of age or older from ad valorem taxes under certain conditions."

The House amendments were read.

Senator Harrington moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

Yeas—24

Aikin	Hightower
Bates	Jordan
Beckworth	Kennard
Bernal	Kothmann
Blanchard	Mauzy
Bridges	McKool
Brooks	Moore
Creighton	Patman
Grover	Schwartz
Hall	Snelson
Harrington	Wallace
Herring	Wilson

Nays—5

Christie	Sherman
Harris	Word
Ratliff	

Absent—Excused

Connally	Watson
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Senate Bill 430 on Second Reading

Senator Hall moved to suspend the regular order of business and take up S. B. No. 430 for consideration at this time.

The motion prevailed by the following vote:

Yeas—20

Bates	Jordan
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Patman
Brooks	Schwartz
Christie	Snelson
Hall	Wallace
Harrington	Wilson
Hightower	Word

Nays—9

Aikin	Kennard
Creighton	Moore
Grover	Ratliff
Harris	Sherman
Herring	

Absent—Excused

Connally	Watson
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The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 430, A bill to be entitled "An Act relating to deceptive trade practices and consumer protection; etc.; and declaring an emergency."

The bill was read second time.

Senator Hall offered the following Committee Amendment to the bill:

Amend Section 1 of Senate Bill 430 adding to Chapter 17 of the Business and Commerce Code new subchapters to be identified as E, F, G, and H, by adding to Subchapter E, Section 17.42 an additional subsection to be identified as (d) and to read as follows:

"(d) Nothing in this Chapter shall in any way apply to the insurance business, or to any person, insofar as said person is engaged in the practice of the insurance business, or to any act or practice regulated by the Texas Insurance Code. For the purposes of this Act the terms 'insurance business' and 'insurer' shall be defined in the same manner as said terms are respectively defined in the Texas Insurance Code. For the purposes of this Section (d) the term 'person' shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, adjusters and life insurance counselors."

The Committee Amendment was read and was adopted.

Senator Hall offered the following Committee Amendment to the bill:

Amend S. B. No. 430 by inserting the following sentence between "merchant." and "Notice" on line 23, page 7:

"Notice of affirmation may not be given to the merchant at a place other than the merchant's place of business or business mailing address."

The Committee Amendment was read.

Senator Bernal offered the following substitute for the Committee Amendment to the bill:

Substitute for Committee Amendment No. 2 the following:

Amend S. B. No. 430, as amended, as follows:

(1) Delete lines 20 through 22, page 9, and substitute the following:

"(6) 'Home Solicitation Transaction' means a consumer transaction for the purchase of goods, other than farm equipment, or services, payable in installments or in cash where the consideration exceeds \$25, in which the merchant or a person acting for him engages in a personal solicitation of the sale at a residence of the consumer and the consumer's agreement or offer to purchase is given at the residence to the merchant or person acting for him. It does not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

(2) Delete quoted Section 17.500 on pages 13 and 14 and substitute the following:

"Section 17.500. HOME SOLICITATION TRANSACTION: CONSUMER'S RIGHT TO CANCEL. (a) In addition to any other right to revoke an offer or to rescind a transaction, or to any other remedy for the merchant's breach, the consumer has the right to cancel a home solicitation transaction until midnight of the third business day after the day on which the consumer signs an agreement or offer to purchase in a home solicitation transaction.

"(b) Cancellation occurs when the consumer gives written notice of cancellation to the merchant at the address stated in the agreement or offer to purchase.

"(c) Notice of cancellation, if given by mail, is given when it is deposited in a mail box, properly addressed and postage prepaid.

"(d) Notice of cancellation given by the consumer need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the consumer not to be bound by the home solicitation transaction.

"Section 17.501. STATEMENT OF CONSUMER'S RIGHTS. (a) In a home solicitation transaction the merchant must furnish the consumer with

a written agreement or offer to purchase signed by the consumer which designates as the date of the transaction the date on which the consumer actually signs and which contains a statement of the consumer's rights as prescribed by this section.

"(b) The statement must:

"(1) appear under the conspicuous caption: 'Consumer's Right to Cancel,' and

"(2) read as follows: 'If this agreement was solicited at your residence and you do not want the goods or services, you may cancel this agreement by mailing a notice to the merchant. The notice must say that you do not want the goods or services and must be mailed before midnight of the fifth business day after you sign this agreement. The notice must be mailed to (insert the name and mailing address of the merchant).'

"(c) Until the merchant has complied with this section, the consumer may cancel the home solicitation transaction by notifying the merchant in any manner and by any means of his intention to cancel.

"Section 17.502. DUTY OF MERCHANT. (a) Except as provided in this section, within 10 days after a home solicitation transaction has been cancelled or an offer to purchase revoked, the merchant must tender to the consumer any payments made by the consumer and any note or other evidence of indebtedness.

"(b) If the down payment includes goods traded in the goods must be tendered in substantially as good condition as when received by the merchant. If the merchant fails to tender the goods as provided by this section, the consumer may elect to recover an amount equal to the trade-in allowance stated in the agreement.

"(c) If the home solicitation transaction is cancelled, the merchant must restore improvements on real property to the condition in which he found them unless requested otherwise by the consumer.

"(d) Until the merchant has complied with the obligations imposed by this section, the consumer may retain possession of goods delivered to him by the merchant and has a lien on the goods in his possession or control for any recovery to which he is entitled.

"Section 17.503. Duty of Consumer. (a) Except as provided in Subsection (d) of Section 17.502, within a reasonable time after a home transaction has been cancelled or an offer to purchase revoked, the consumer upon demand must tender to the merchant any goods delivered by the merchant pursuant to the sale, but he is not obligated to tender at any place other than his residence. If the merchant fails to demand possession of the goods within a reasonable time after cancellation or revocation, the goods become the property of the consumer without obligation to pay for them. For the purpose of this section, 40 days is presumed to be a reasonable time.

"(b) The consumer has a duty to take reasonable care of the goods in his possession both before cancellation or revocation and for a reasonable time thereafter, during which time the goods are otherwise at the merchant's risk.

"(c) If the merchant has performed any services pursuant to a home solicitation transaction prior to its cancellation, the merchant is entitled to no compensation.

The substitute for the Committee Amendment was read and was adopted.

The Committee Amendment as substituted was then adopted.

Senator Hall offered the following Committee Amendment to the bill:

Amend S. B. No. 430 by striking Subchapter G, beginning on line 14, page 10, and continuing through line 25, page 13, and substituting the following:

Subchapter G. Consumer Reporting Agency

"Section 17.701. Definitions. As used in this subchapter:

"(1) 'Person' means any individual, partnership, corporation, trust, estate, cooperative, association, government, or governmental subdivision or agency, or other entity.

"(2) 'Consumer' means an individual.

"(3) 'Consumer report' means any written, oral, or other communication of any information by a consumer re-

porting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes, or employment purposes, or other purposes authorized under Section 17.702 of this subchapter. The term does not include:

"(A) any report containing information solely as to transactions or experiences between the consumer and the person making the report;

"(B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or

"(C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under Section 17.711.

"(4) 'Consumer reporting agency' means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"(5) 'File,' when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

"(6) 'Employment purposes' when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

"(7) 'Medical information' means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or

medical practitioners, hospitals, clinics, or other medical or medically related facilities.

"Section 17.702. PERMISSIBLE PURPOSES OF REPORTS. A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

"(1) in response to the order of a court having jurisdiction to issue such an order;

"(2) in accordance with the written instructions of the consumer to whom it relates; or

"(3) to a person which it has reason to believe:

"(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer;

"(B) intends to use the information for employment purposes; or

"(C) intends to use the information in connection with the underwriting of insurance involving the consumer;

"(D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

"(E) otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

"Section 17.703. Obsolete information. (a) Except as authorized under Subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information:

"(1) bankruptcies which, from date of adjudication of the most recent bankruptcy, antedate the report by more than fourteen years;

"(2) suits and judgments which, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period;

"(3) paid tax liens which, from date of payment, antedate the report by more than seven years;

"(4) accounts placed for collection or charged to profit and loss which antedate the report by more than seven years;

"(5) records of arrest, indictment, or conviction of crime which, from date of disposition, release, or parole, antedate the report by more than seven years; and

"(6) Any other adverse item of information which antedates the report by more than seven years.

"(b) The provisions of subsection (a) are not applicable in the case of any consumer credit report to be used in connection with:

"(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of \$50,000 or more;

"(2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of \$50,000 or more; or

"(3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal \$20,000, or more.

"Section 17.704. Compliance Procedures. (a) Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of Section 17.703 of this subchapter and to limit the furnishing of consumer reports to the purposes listed under Section 17.702 of this subchapter. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in Section 17.703 of this subchapter.

"(b) Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

"Section 17.705. Disclosures to Governmental Agencies. Notwithstanding the provisions of Section 17.703 of this subchapter, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former address, places of employment, or former places of employment, to a governmental agency.

"Section 17.706. Disclosures to Consumer. (a) Every consumer reporting agency shall, upon request and a proper identification of any consumer, clearly and accurately disclose to the consumer:

"(1) the nature and substance of all information (except medical information) in its files on the consumer at the time of the request;

"(2) the sources of the information; provided, that in the event an action is brought under this subchapter, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

"(3) the recipients of any consumer report on the consumer which it has furnished:

"(A) for employment purposes within the two-year period preceding the request, and

"(B) for any other purpose within the six-month period preceding the request.

"(b) The requirements of subsection (a) respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this subchapter except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.

"Section 17.707. Conditions of Disclosure to Consumers. (a) A consumer reporting agency shall make the disclosures required under Section 17.706 of this subchapter during normal business hours and on reasonable notice.

"(b) The disclosures required under Section 17.706 of this subchapter shall be made to the consumer:

"(1) in person if he appears in person and furnishes proper identification; or

"(2) by telephone if he has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

"(c) Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him pursuant to Section 17.706 of this subchapter.

"(d) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

"(e) Except as provided in Sections 17.712 and 17.713 of this subchapter, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to Section 17.706, 17.707, or 17.711 of this subchapter except as to false information furnished with malice or willful intent to injure such consumer.

"Section 17.708. Procedure in Case of Disputed Accuracy. (a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the consumer reporting agency shall promptly delete such information. The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

"(b) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

"(c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

"(d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information. The consumer reporting agency shall clearly and conspicuously disclose to the consumer his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

"Section 17.709. Charges for Certain Disclosures. A consumer reporting agency shall make all disclosures pursuant to Section 17.706 of this subchapter and furnish all consumer reports pursuant to Subsection (d) of Section 17.708 of this subchapter without charge to the consumer if, within thirty days after receipt by such consumer of a notification pursuant to Section 17.711 of this subchapter or notification from a debt collection agency affiliated with such consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a re-

quest under Section 17.706 of this subchapter or Subsection (d) of Section 17.708 of this subchapter. Otherwise, the consumer reporting agency may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to Section 17.706 of this subchapter, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to person designated by the consumer pursuant to Subsection (d) of Section 17.708 of this subchapter, the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the consumer reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

"Section 17.710. Public Record Information for Employment Purposes. A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall:

"(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

"(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

"Section 17.711. REQUIREMENTS ON USERS OF CONSUMER REPORTS. (a) Whenever credit or insurance for personal, family, or

household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the consumer reporting agency making the report.

"(b) Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

"(c) No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of subsections (a) and (b).

"Section 17.712. Civil Liability for Willful Noncompliance. Any consumer reporting agency or user of information which willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of:

"(1) any actual damages sustained by the consumer as a result of the failure;

"(2) such amount of punitive damages as the court may allow; and

"(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"Section 17.713. Civil Liability for Negligent Noncompliance. Any consumer reporting agency or user of information which is negligent in failing to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of:

"(1) any actual damages sustained by the consumer as a result of the failure;

"(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"Section 17.714. Jurisdiction of Courts; Limitation of Actions. An action to enforce any liability created under this subchapter may be brought in any district court in the county of the defendant's residence within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this title to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this subchapter, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

"Section 17.715. Obtaining Information Under False Pretenses. Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than \$5,000 or imprisoned in the county jail not more than one year, or both.

"Section 17.716. Unauthorized Disclosures by Officers or Employees. Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined not more than \$5,000 or imprisoned in the county jail not more than one year, or both.

[Section 17.717-17.799 reserved for expansion]

The Committee Amendment was read.

Senator Hall offered the following

amendment to the Committee Amendment to the bill:

Amend Committee Amendment No. 3 to S. B. No. 430 as follows:

(1) Add a new subdivision (8) to Section 17.701, page 2, to read as follows:

"(8) 'Investigative consumer report' means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with other with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer."

(2) Add a new Section 17.7031 following Section 17.703 to read as follows:

"Section 17.7031. Disclosure of Investigative Consumer Reports. (a) A person may not procure or cause to be prepared an investigative report on any consumer unless:

"(1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics and mode of living, whichever are applicable, may be made and such disclosure is made in a writing mailed, or otherwise delivered to the consumer, not later than three days after the date on which the report was first requested and includes a statement informing the consumer of his right to request the additional disclosure provided for by this section; or

"(2) the report is to be used for employment purposes for which the consumer has not specifically applied,

"(b) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsec-

tion (a)(1), shall make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed or otherwise delivered to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

"(c) No person may be held liable for any violation of subsection (a) or (b) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (a) or (b).

(3) On line 42, page 3, insert the following between "information"; and "Provided":

"except that the sources of information acquired solely for the use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed."

(4) Add a new Section 17.7101 following Section 17.710 to read as follows:

"Section 17.7101. Restrictions on Investigative Consumer Reports. Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record), may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report, or the adverse information was received within the three month period preceding the date the subsequent report is furnished."

The amendment to the Committee Amendment was read and was adopted.

The Committee Amendment as amended was then adopted.

Senator Hall offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by striking the last sentence of Subsection (c) of quoted Section 17.41, page 9, and striking lines 6 through 9, page 10.

The amendment was read and was adopted.

Senator Hall offered the following amendment to the bill:

Amend S. B. No. 430, as amended, as follows:

(1) Strike "or otherwise unconscionable or oppressive to the consumer" on lines 42 and 43, page 9;

(2) Strike "violation resides or does business" on line 4, page 12, and insert therefor "violation occurred";

(3) Strike lines 11 through 14, page 12, and substitute: "(c) An assurance of voluntary compliance shall not be considered an admission of violation for any purpose. An assurance of voluntary compliance is admissible in evidence with respect to acts and practices occurring prior to the date of the compliance in any subsequent proceeding concerning the same or similar alleged violations brought by the consumer protection division";

(4) Strike "with the consent of the parties, in a district court of Travis County," on lines 28 and 29, page 12, and substitute "in the county in which the violation occurred."

(5) Insert "not to exceed a total of \$10,000" between "violation" and "to" on line 38, page 12;

(6) Strike "(a)" on line 47, page 12 and strike lines 12 through 24, page 13;

(7) Strike ", modify, or otherwise attempt to limit" on line 35, page 14;

(8) Strike ", modify, or attempt to limit" on line 37, page 14;

(9) Strike lines 45 through 48, page 14, and substitute: "defendant's principal place of business is located, or where the violation occurred. Recovery shall be actual damages plus reasonable attorney's fees. The court";

(10) Strike "(a)" on line 40, page 14, and strike lines 51 through 54, page 14, and line 1, page 15; and

(11) Strike lines 34 through 36, page 15, and substitute "(c) Any person who violates the terms of a temporary injunction issued under Section 17.46 of this code shall forfeit and pay to the State a civil penalty of not more than \$5,000 per violation. Any person who violates the terms of a permanent injunction issued under Section 17.46 of this code shall forfeit and pay to the State a civil penalty of not more than \$10,000 per violation."

The amendment was read and was adopted.

Senator Hall offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by striking quoted Subchapter H, beginning on line 16, page 20, and continuing through line 23, page 22, and substituting the following:

SUBCHAPTER H. DEBT COLLECTION

"Section 17.80. Definitions. As used in this subchapter:

"(1) 'Claim' means any obligation or alleged obligation arising out of a consumer transaction.

"(2) 'Debt collection' means any action, conduct, or practice in soliciting claims for collection or in collecting claims owed or due, or alleged to be owed or due, a creditor by a consumer.

"(3) 'Debt collector' means any person engaging, directly or indirectly, in debt collection, and includes any person who sells, or offers to sell, forms represented to be a collection system, device, or scheme, intended or calculated to be used to collect claims.

"(4) 'Consumer' means an individual who seeks or acquires real or personal property, services, money, or credit for personal, family, or household purposes.

"(5) 'Consumer transaction' means a transaction in which one or more of the parties is a consumer.

"(6) 'Creditor' means a party to a consumer transaction other than a consumer.

"Section 17.81. Threats or coercion. No debt collector may collect or attempt to collect any money alleged to be due and owing by any threats, coercion, or attempts to coerce which employ any of the following practices:

"(1) using or threatening to use violence or other criminal means to cause harm to the person or property of any person;

"(2) falsely accusing or threatening to falsely accuse any person of fraud or any other crime;

"(3) intentionally representing or threatening to represent to a third party that a consumer is willfully refusing to pay a non-disputed debt when the debt collector knows or should know that the debt is disputed by the consumer for any reason;

"(4) threatening to sell or assign to another the obligation of the consumer with an attending representation that the result of such sale or assignment would be that the consumer would lose any defense to the claim or would be subject to illegal collection attempts;

"(5) threatening that the debtor will be arrested for nonpayment of a claim;

"(6) threatening that nonpayment of an alleged claim will result in the seizure, repossession, or sale of any property of that person without proper court proceedings; however, nothing herein shall prevent a debt collector from exercising or threatening to exercise a statutory or contractual right of seizure, repossession, or sale which does not require court action; or

"(7) threatening to take any action prohibited by law.

Section 17.82. Harassment: Abuse. In connection with the collection of or attempt to collect any claim alleged to be due and owing by a person, no debt collector may unreasonably oppress, harass, or abuse any person by methods which employ the following practices:

"(1) using profane or obscene language or language that is intended to unreasonably abuse the hearer or reader;

"(2) placing telephone calls without disclosure of the name of the individual making the call, and with the intent to annoy, harass, or threaten any person at the called number;

"(3) causing expense to any person in the form of long distance telephone tolls, telegram fees, or other charges incurred by a medium of communication, without first disclosing the name of the person making the telephone call and the name of the business or firm represented or transmitting the communication; or

"(4) causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously or at times known to be inconvenient, with the intent to annoy, harass, or threaten any person at the called number.

"Section 17.83. Unfair or Unconscionable Means. No debt collector may collect or attempt to collect any claim by unfair or unconscionable means employing the following practices:

"(1) seeking or obtaining any written statement or acknowledgement in any form that specifies that a consumer's obligation is one incurred for necessities of life where the original obligation was not in fact incurred for such necessities;

"(2) collecting or attempting to collect any interest or other charge, fee, or expense incidental to the principal obligation unless such interest or incidental fee, charge, or expense is expressly authorized by the agreement creating the obligation or legally chargeable to the consumer; or

"(3) any further communication with the consumer when it is known that the consumer is represented by an attorney and the attorney's name and address is known.

"Section 17.84. Fraudulent, Deceptive, or Misleading Representations. No debt collector may collect or attempt to collect claims or obtain information concerning a consumer by any fraudulent, deceptive, or misleading representations which employ any of the following practices:

"(1) using any name while engaged in the collection of claims other than the true business name of the debt collector;

"(2) falsely representing that the debt collector has information in his possession or something of value for the consumer to solicit or discover information about the consumer;

"(3) failing to clearly disclose, in any communication with the debtor, the name of the person to whom the claim has been assigned or is owed at the time of making demand for money;

"(4) failing to clearly disclose, in any communication with the debtor, that the debt collector is attempting to collect a claim;

"(5) using any written communication which fails to clearly indicate the name of the debt collector and the debt collector's street address, when the written notice refers to an alleged delinquent debt;

"(6) using any written communication which is mailed from or demands a response to a place other than the debt collector's or creditor's street address or local post office box;

"(7) falsely representing the character, extent, or amount of a claim against a consumer or of its status in any legal proceeding;

"(8) falsely representing that any debt collector is vouched for, bonded by, affiliated with, or an instrumentality, agent, or official of this state or any agency of federal, state, or local government;

"(9) using, distributing, or selling any written communication which simulates or falsely represents to be a document authorized, issued, or approved by a court, an official, a governmental authority, or any other legally constituted or authorized governmental agency, or which creates a false impression about its source, authorization, or approval, or using the seal or insignia, or simulation of the seal or insignia of any such governmental authority;

"(10) representing that an existing obligation of the consumer will be increased by the addition of attorney's fees, investigation fees, service fees, or other fees or charges when the addition of such fees or charges may or may not be awarded by the court in a court proceeding;

"(11) representing that an existing obligation of the consumer may or will be increased by the addition of attorney's fees, investigation fees, service fees, or other fees or charges when in fact such fees or charges clearly cannot legally be added to the existing obligation;

"(12) falsely representing the status or true nature of or the services rendered by the debt collector or his business;

"(13) using any written communication which violates or fails to conform with the United States Postal Laws and regulations;

"(14) using any communication which purports to be from any attorney or law firm, when in fact it is not, or

"(15) representing that a debt has been turned over to an attorney or an independent organization engaged in the business of collecting past due accounts, when in fact it has not.

"Section 17.85. Use of Independent Debt Collectors. No creditor may knowingly use any independent debt collector who repeatedly and continuously engages in acts or practices which are prohibited by this subchapter.

"Section 17.86. Authority of Consumer Protection Division.

Whenever the consumer protection division of the attorney general's office has reason to believe that a per-

son is engaging in, has engaged in, or is about to engage in any act or practice prohibited by this subchapter, he may institute an investigation and obtain reports and examinations, issue civil investigative demands for material relevant to the specific complaint or practice under investigation, accept voluntary compliances, or institute suits for permanent injunctions pursuant to Sections 17.43, 17.44, 17.45, and 17.46 of this Chapter. The penalties provided in Section 17.53 of this Chapter shall be applicable for evasion or violation of any orders issued pursuant to Sections 17.43, 17.44, or 17.46 of this Chapter.

"Section 17.87. Civil Liability for Willful Noncompliance. Any debt collector or creditor who willfully engages in an act or practice prohibited by this subchapter is liable to a consumer for any actual damages sustained by the consumer as a result of such act or practice, such amount of punitive damages as the court may allow, and, in the case of any successful action to enforce liability under this section, the costs of the action together with attorney's fees.

"Section 17.88. Civil Liability for Negligent Noncompliance. Any debt collector or creditor who negligently engages in an act or practice prohibited by this subchapter is liable to a consumer for any actual damages sustained by the consumer as a result of such act or practice and, in the case of any successful action to enforce any liability under this section, the costs of the action together with attorney's fees.

"Section 17.89. Jurisdiction of Courts; Limitation of Actions. An action to enforce any liability created under this subchapter may be brought in the district court in the county of the defendant's residence or where the violation occurred within two years from the date on which the liability arises."

The amendment was read and was adopted.

Senator Kennard moved to postpone further consideration of S. B. No. 430 until 11:00 o'clock a.m. tomorrow.

The motion to postpone further consideration of S. B. No. 430 was lost by the following vote:

Yeas—10

Beckworth	Kennard
Blanchard	Moore
Creighton	Patman
Grover	Ratliff
Harris	Sherman

Nays—19

Aikin	Jordan
Bates	Kothmann
Bernal	Mauzy
Bridges	McKool
Brooks	Schwartz
Christie	Snelson
Hall	Wallace
Harrington	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally Watson

Senator Moore offered the following amendment to the bill:

Amend Section 17.40 by deleting "(O) Engaging in any act or practice which is unfair or deceptive to the consumer."

The amendment was read.

(Senator Schwartz in Chair.)

Question—Shall the amendment by Senator Moore to S. B. No. 430 be adopted?

Recess

On motion of Senator Moore the Senate at 12:39 o'clock p.m. took recess until 3:30 o'clock p.m. today.

After Recess

The President Pro Tempore called the Senate to order at 3:30 o'clock p.m. today.

Message From the House

Hall of the House of Representatives
Austin, Texas,
May 10, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

Corrected Message in lieu of adopted Conference Committee Report:

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 900 by a non-record vote.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 11. House Conferees: Heatly, Chairman; Slack, Braecklein, Slider, Longoria.

S. C. R. No. 92, Requesting the return of House Bill No. 889.

S. C. R. No. 93, Requesting the return of House Bill No. 976.

H. C. R. No. 65, Petitioning the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Bills on First Reading

The following bills received from the House, were read the first time and referred to the Committees indicated:

H. B. No. 89, To Committee on Public Health.

H. B. No. 139, To Committee on Public Health.

H. B. No. 197, To Committee on County, District and Urban Affairs.

H. B. No. 239, To Committee on County, District and Urban Affairs.

H. B. No. 243, To Committee on Jurisprudence.

H. B. No. 244, To Committee on Parks and Wildlife.

H. B. No. 246, To Committee on Water and Conservation.

H. B. No. 260, To Committee on Administration.

H. B. No. 363, To Committee on County, District and Urban Affairs.

H. B. No. 418, To Committee on County, District and Urban Affairs.

H. B. No. 425, To Committee on Parks and Wildlife.

H. B. No. 428, To Committee on Parks and Wildlife.

H. B. No. 450, To Committee on Privileges and Elections.	H. B. No. 1146, To Committee on Water and Conservation.
H. B. No. 467, To Committee on Water and Conservation.	H. B. No. 1204, To Committee on County, District and Urban Affairs.
H. B. No. 509, To Committee on County, District and Urban Affairs.	H. B. No. 1206, To Committee on County, District and Urban Affairs.
H. B. No. 511, To Committee on County, District and Urban Affairs.	H. B. No. 1226, To Committee on County, District and Urban Affairs.
H. B. No. 512, To Committee on County, District and Urban Affairs.	H. B. No. 1270, To Committee on State Departments and Institutions.
H. B. No. 548, To Committee on Education.	H. B. No. 1272, To Committee on Water and Conservation.
H. B. No. 576, To Committee on Water and Conservation.	H. B. No. 1304, To Committee on County, District and Urban Affairs.
H. B. No. 602, To Committee on Public Health.	H. B. No. 1327, To Committee on Transportation.
H. B. No. 636, To Committee on Insurance.	H. B. No. 1339, To Committee on Water and Conservation.
H. B. No. 726, To Committee on County, District and Urban Affairs.	H. B. No. 1352, To Committee on State Departments and Institutions.
H. B. No. 750, To Committee on State Affairs.	H. B. No. 1403, To Committee on County, District and Urban Affairs.
H. B. No. 756, To Committee on County, District and Urban Affairs.	H. B. No. 1407, To Committee on Banking.
H. B. No. 821, To Committee on Jurisprudence.	H. B. No. 1413, To Committee on Privileges and Elections.
H. B. No. 840, To Committee on Jurisprudence.	H. B. No. 1437, To Committee on Privileges and Elections.
H. B. No. 844, To Committee on County, District and Urban Affairs.	H. B. No. 1440, To Committee on Water and Conservation.
H. B. No. 885, To Committee on Water and Conservation.	H. B. No. 1479, To Committee on County, District and Urban Affairs.
H. B. No. 927, To Committee on County, District and Urban Affairs.	H. B. No. 1525, To Committee on County, District and Urban Affairs.
H. B. No. 986, To Committee on Parks and Wildlife.	H. B. No. 1528, To Committee on Education.
H. B. No. 995, To Committee on County, District and Urban Affairs.	H. B. No. 1539, To Committee on County, District and Urban Affairs.
H. B. No. 1015, To Committee on State Affairs.	H. B. No. 1600, To Committee on County, District and Urban Affairs.
H. B. No. 1043, To Committee on County, District and Urban Affairs.	H. B. No. 1601, To Committee on County, District and Urban Affairs.
H. B. No. 1068, To Committee on Agriculture and Livestock.	H. B. No. 1608, To Committee on County, District and Urban Affairs.
H. B. No. 1119, To Committee on Water and Conservation.	H. B. No. 1620, To Committee on Water and Conservation.
	H. B. No. 1622, To Committee on County, District and Urban Affairs.

H. B. No. 1636, To Committee on County, District and Urban Affairs.

H. B. No. 1638, To Committee on County, District and Urban Affairs.

H. B. No. 1644, To Committee on County, District and Urban Affairs.

H. B. No. 1679, To Committee on County, District and Urban Affairs.

H. B. No. 1786, To Committee on Water and Conservation.

H. J. R. No. 8, To Committee on Constitutional Amendments.

H. J. R. No. 57, To Committee on Constitutional Amendments.

(President in Chair.)

Message From the Governor

The following message received from the Governor was read and was filed with the Secretary of the Senate:

EXECUTIVE DEPARTMENT

Austin, Texas,
May 10, 1971.

To Members of the Senate of the State of Texas from Governor Preston Smith:

I herewith submit the attached message for your consideration as an emergency measure.

Copies of this message will be distributed to each Senator.

Sincerely,
Preston Smith,
Governor of Texas.

May 10, 1971

To The Members of The 62nd Legislature, Regular Session:

I am today calling upon the members of the legislature to take immediate action to avert the impending necessity of a special legislative session to deal with the financing of our state primaries.

The decision in the case of *Pate v. Dies*, 321 F. Supp. 1358(1970), and the accompanying injunction issued against the collection of primary filing fees have placed this legislature in a position of having to make some alteration in our present primary fee structure. Although we recognize that there are differing opinions as to the

amount of change necessary to meet the Court's objections and that there are presently bills in both houses of the legislature which would probably meet the standards in the Court's opinion, we feel that the emergency nature of this problem demands your immediate attention.

Although some may not like the idea of the State taking over the operation of the primaries, I do not feel that such personal feelings should be used as a license for inaction in view of the current problem. One thing is clear, this legislature must make some provision to finance the primaries if the Supreme Court fails to overturn the lower court opinion or if the lower court continues its injunction against the collection of filing fees. A failure to pass adequate legislation now will almost certainly result in a special session prior to or during the primary election campaigns in 1972.

I have studied all aspects of this question and I am suggesting the following solution. The legislature should pass an amendment to the present filing fee statutes to allow persons who are not able to pay the filing fees to get on the ballot. I know that many legal authorities do not feel this method will prove constitutional and may leave us with the identical problem of the necessity of calling a special session. At the same time I know that the legislature wants to avoid an unnecessary special session if at all possible. Therefore, I would like to suggest that either S. B. 610 or H. B. 1488 or legislation similar to those bills be passed with the effective date conditional upon the failure of the State's appeal of the present decision or a refusal by the lower court to dissolve the present injunction against collecting primary fees. I believe that both of these steps are necessary to prevent a special session prior to the 1972 primary elections and I hope that my suggestions are of some help to you.

Pursuant to the provisions of Section 5 of Article III of the Constitution of the State of Texas, I herewith submit as an emergency matter the following:

Legislation amending the present filing fee statutes to allow persons who are not financially able to pay the filing fees to get on the ballot.

Legislation to provide for the state financing of primaries with the effective date conditional upon the failure of the State's appeal of the pre-

sent decision or the refusal by the lower court to dissolve its injunction against collection of primary filing fees.

Respectfully submitted,
Preston Smith
Governor of Texas

(Senator McKool in Chair.)

Reports of Standing Committees

By unanimous consent, Senator Moore submitted the following reports for the Committee on State Affairs:

S. B. No. 911 (Amended).

C. S. H. B. No. 203 (Read first time).

S. B. No. 877.

C. S. S. B. No. 931 (Read first time).

By unanimous consent, Senator Mauzy submitted the following report for the Committee on Education:

H. B. No. 398 (Floor report).

By unanimous consent, Senator Creighton submitted the following report for the Committee on Water and Conservation:

H. B. No. 1786.

(President in Chair.)

By unanimous consent, Senator Word submitted the following reports for the Committee on Military and Veterans Affairs:

H. B. No. 144.

H. B. No. 615.

H. B. No. 614 (Amended).

H. B. No. 616.

By unanimous consent, Senator Hightower submitted the following report for the Committee on Administration:

H. B. No. 260 (Floor report).

Senate Bill 430 on Second Reading

The Senate resumed the consideration of the pending business, same being S. B. No. 430 on its second reading and passage to engrossment with as amendment by Senator Moore pending.

Question—Shall the amendment by Senator Moore to S. B. No. 430 be adopted?

On motion of Senator Moore and by unanimous consent, the amendment was withdrawn.

Senator Moore offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by striking "unfair or" on line 9, page 9.

The amendment was read and was adopted.

Senator Moore offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by inserting "if a judgment has not been satisfied within six months from the date of judgment" between "receiver" and "or" on line 44, page 12.

The amendment was read and was adopted.

Senator Moore offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by striking lines 34 through 36, page 15, and substituting the following:

"(c) Any person who violates the terms of a permanent injunction issued under Section 17.46 of this code shall forfeit and pay to the State a civil penalty of not more than \$10,000."

The amendment was read and was adopted.

Senator Bernal offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by redesignating subdivision "(O)" as "(P)" and inserting a new subdivision (O) to quoted Section 17.40(2), page 9, to read as follows:

"(O) using or employing a plan or selling techniques known generally as a 'pyramid style' or 'multi-level investment plan' which is any scheme for the disposal or distribution of property whereby a participant pays a valuable consideration for the property and in connection therewith receives the opportunity to be compensated for introducing one or more additional persons into the plan or for the chance to be compensated when a person introduced by the participant introduces a new participant. A

limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for the right to recruit or the right to receive profits therefrom, does not change the identity of the scheme as a 'pyramid sales' or 'multi-level investment' plan."

The amendment was read and was adopted.

Senator Bernal offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by inserting a new subdivision (P) to quoted Section 17.40(2), page 9, to read as follows:

"(P) basing a charge for the repair of any item in whole or in part upon a guarantee or warranty instead of upon the value of the actual repairs to be made and work to be performed upon the item;"

The amendment was read and was adopted.

Senator Bernal offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by striking lines 6 through 8, page 9 and substituting the following:

"(N) using or employing a chain referral sales plan in connection with the sale, or offer to sell, of goods, merchandise or anything of value which uses any sales technique, plan, arrangement, or agreement whereby a buyer or prospective buyer is offered the opportunity to purchase merchandise and in connection therewith receives the seller's promise or representation that the buyer shall have the right to receive compensation or consideration in any form whatsoever for furnishing to the seller names of other prospective buyers;"

The amendment was read and was adopted.

Senator Hall offered the following amendment to the bill:

Amend S. B. No. 430, as amended by striking Subdivision (3) of Section 17.81 and substituting the following:

"(3) intentionally representing or threatening to represent to a third party that a consumer is willfully refusing to pay a non-disputed debt when the debt is in dispute for any

reason and the consumer has notified the debt collector in writing of the dispute;"

The amendment was read and was adopted.

Senator Hall offered the following amendment to the bill:

Amend S. B. No. 430, as amended, by inserting "in writing" between "communication" and "with" in subdivision (3) of Section 17.83.

The amendment was read and was adopted.

Record of Vote

Senator Bernal asked to be recorded as voting "Nay" on the adoption of the above amendment.

On motion of Senator Hall, and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Record of Votes

Senators Creighton and Ratliff asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senate Bill 430 on Third Reading

Senator Hall moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 430 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—23

Aikin	Kothmann
Bates	Mauzy
Beckworth	McKool
Bernal	Moore
Bridges	Patman
Brooks	Schwartz
Christie	Sherman
Hall	Snelson
Harrington	Wallace
Herring	Wilson
Hightower	Word
Jordan	

Nays—5

Blanchard	Creighton
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Harris
Kennard

Ratliff

Absent

Grover

Absent—Excused

Connally

Watson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Blanchard, Aikin, Creighton, Kennard, Ratliff and Harris asked to be recorded as voting "Nay" on the final passage of the bill.

Senate Bill 338 With House Amendment

Senator Moore called S. B. No. 338 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Amendment No. 1

Amend S. B. No. 338 by striking all below the enacting clause and insert the following:

Section 1. There is established at Texas A&M University, in the College of Agriculture, a Real Estate Research Center, hereinafter referred to as the Center.

"The operating budget, staffing, and activities of the center shall be approved by the Board of Directors of the Texas A&M University System."

Sec. 2. (a) The Real Estate Research Advisory Committee is created.

(b) The advisory committee is composed of nine persons appointed by the Governor, without Senate confirmation, with the following representation:

"(1) six members shall be real estate brokers, licensed as such for at least 5 years preceding the date of their appointment, who have been recommended by the Texas Real Estate Commission and are representative of each of the following real estate specialities:

(i) one member shall be principally engaged in real estate brokerage;

(ii) one member shall be principally engaged in real estate financing;

(iii) one member shall be principally engaged in the ownership or construction of real estate improvements;

(iv) one member shall be principally engaged in the ownership, development or management of residential properties;

(v) one member shall be principally engaged in the ownership, development or management of commercial properties;

(vi) one member shall be principally engaged in the ownership, development or management of industrial properties;

(2) three members shall be representatives of the general public.

(c) Except for the initial appointees, members of the advisory committee hold office for staggered terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. In making the initial appointments, the governor shall designate three members, including two representatives of the real estate industry and one representative of the general public, for terms expiring in 1973, three for terms expiring in 1975, and three for terms expiring in 1977. Any vacancy shall be filled by appointment for the unexpired portion of the term. Each member shall serve until his successor is qualified.

(d) The chairman of the Texas Real Estate Commission, or a member of the commission, designated by him, shall serve as an ex-officio, non-voting member of the advisory committee.

(e) The committee shall elect a chairman from its membership, and he shall serve for an annual term."

(f) The first meeting of the advisory committee shall be called by the president of Texas A&M University or his designated representative. The committee shall meet not less than semiannually, and in addition on call of its chairman, or on petition of any six of its members, or on call of the president of Texas A&M University or his designated representative.

(g) The advisory committee shall review and approve proposals to be submitted to the board of directors

of the Texas A&M University System relating to staffing and general policies including priority ranking of research studies and educational and other studies.

(h) The president of Texas A&M University or his designated representative shall submit to the advisory committee in advance of each fiscal year a budget for expenditures of all funds provided for the center in a form that is related to the proposed schedule of activities for the review and approval of the advisory committee. The proposed budget approved by the advisory committee shall be forwarded with the comments of the committee to the board of directors of the Texas A&M University System prior to its action on the proposed budget, and the board of directors of the Texas A&M University System shall not authorize any expenditure that has not had the prior approval of the advisory committee.

(i) The president of Texas A&M University or his designated representative shall submit to the advisory committee for its review and approval a research agenda at the beginning of each fiscal year and shall continuously inform the advisory committee of changes in its substance and scheduling.

Sec. 3. The purposes, objectives, and duties of the center are as follows:

(1) to conduct studies in all areas that relate directly or indirectly to real estate and/or urban or rural economics and to publish and disseminate the finding and results of the studies;

(2) to assist the teaching program in real estate offered by the colleges and universities in the State of Texas when requested to do so, and to award scholarships and establish real estate chairs when funds are available;

(3) to supply material to the Texas Real Estate Commission for the preparation of the examinations for real estate salesmen and brokers, if requested to do so by the commission;

(4) to develop and from time to time revise and update materials for use in the extension courses in real estate offered by the universities and colleges in the State of Texas when requested to do so;

(5) to assist the Texas Real Estate Commission in developing standards for the accreditation of vocational schools and other teaching agencies giving courses in the field of real estate, and standards for the approval of courses in the field of real estate, as and when requested to do so by the commission;

(6) to make studies of and recommend changes in state statutes and municipal ordinances, providing however that no staff member of the center shall directly contact legislators or locally elected officials concerning the recommendations except to provide a factual response to an inquiry as to the method of research or nature of the findings;

"(7) provided and except, however, that those conducting such research and studies shall periodically review its progress with the Advisory Committee or its designated representative, and the results of any research project, or study, shall not be published or disseminated until it has been reviewed and approved in writing by the Advisory Committee or its designated representative.

Sec. 4. The center may make a charge for its publications and may receive gifts and grants from foundations, individuals, and other sources for the benefit of the research center.

Sec. 5. A report of the activities and accomplishments of the center shall be published annually.

Sec. 6. Section 22, Texas Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 22. The Commission shall charge and collect the following fees:

"(a) A fee not to exceed Twenty Dollars (\$20.00) for the filing of any original application for real estate broker licensure.

"(b) A fee not to exceed Twenty Dollars (\$20.00) for the filing of any real estate broker license renewal application.

"(c) A fee of Ten Dollars (\$10.00) for the filing of an original application for real estate salesman licensure.

"(d) A fee of Ten Dollars (\$10.00) for the filing of any real estate salesman license renewal application.

"(e) A fee of Three Dollars (\$3.00) for a license for each additional office or place of business.

"(f) A fee of Three Dollars (\$3.00) for a license for a change of place of business or change of employer.

"(g) A fee of Three Dollars (\$3.00) to replace a license lost or destroyed.

"(h) A fee of Two Hundred Dollars (\$200.00) for the filing of an original application for approval of a real estate brokerage course to be conducted by a privately owned school (other than an accredited institution of higher learning) pursuant to provisions of Section 10 of this Act.

"(i) A fee of One Hundred Dollars (\$100.00) per annum for inspecting and renewing approval of a privately owned school (other than an accredited institution of higher learning) conducting real estate courses approved by the Commission."

Sec. 7. Section 24, Texas Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 24 (a) Ten dollars (\$10.00) received by the Commission for the filing of broker license renewal applications and Five Dollars (\$5.00) received by the Commission for the filing of real estate salesman license renewal applications shall be transmitted to Texas A&M University for deposit in a separate banking account. The money in the separate account shall be expended for the support and maintenance of the Real Estate Research Center and for carrying out the purposes, objectives, and duties of the center.

"(b) Except as provided in Subsection (a) of this section all moneys derived from fees, assessments, or charges under this Act, shall be paid by the Commission into the State Treasury for safekeeping, and shall by the State Treasurer be placed in a separate fund to be available for the use of the Commission in the administration of the Act upon requisition of the Commission. So much of such moneys so paid into the State Treasury as is necessary is hereby specifically appropriated to the Commission for the purpose of paying the salaries and expenses of all persons employed or appointed as provided herein for the administration of this Act, and all other expenses necessary and proper for the administration of this Act, including equipment and maintenance of any supplies for such offices or quarters as the

Commission may occupy, and necessary traveling expenses for the Commission or persons authorized to act for it when performing duties hereunder at the request of the Commission. At the end of the State fiscal year, any unused portion of said funds in said special account, except such funds as may be appropriated to administer this Act pending receipt of additional revenues available for that purpose, shall be set over and paid into the General Revenue Fund. The Comptroller shall, upon requisition of the Commission, from time to time, draw warrants upon the State Treasurer for the amount specified in such requisition, not exceeding, however, the amount in such fund at the time of making any requisition; provided, however, that all moneys expended in the administration of this Act shall be specified and determined by itemized appropriation in the General Departmental Appropriation Bill for the Texas Real Estate Commission, and not otherwise."

Sec. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 9. All laws and parts of laws in conflict or inconsistent with this Act are hereby repealed.

Sec. 10. The fact that real property is of such vital importance in Texas; and the further fact that Texas citizens annually spend millions of dollars on real property; and the further fact that there exists a need to know more about real property; and the further fact that the importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days in each house be suspended, and this Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The House amendment was read.

Senator Moore moved that the Senate concur in the House amendments.

The motion prevailed.

**Senate Bill 442 With
House Amendment**

Senator Mauzy called S. B. No. 442 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Committee Amendment No. 1

Amend S. B. No. 442, First Printing, by:

(1) adding on line 34 of page one, between the words "the" and "salaries," the word "annual";

(2) striking on line 35 of page one the phrase "as follows" and substituting the phrase "in amounts not to exceed the following";

(3) striking on line 36 of page one the phrase "shall be" and substituting the punctuation ",";

(4) striking on line 37 of page one the phrase "per annum";

(5) striking on line 46 of page one the word "by" and substituting the phrase "under authority of";

(6) striking on line 55 of page one the word "less" and substituting the word "more";

(7) Striking on line 58 of page one the phrase "the sum of" and substituting the phrase "a sum, to be fixed by the Commissioners Court, not to exceed"; and

(8) striking the paragraph appearing on lines 4 through 13 of page 2.

The House amendment was read.

Senator Mauzy moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S. B. No. 442 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the

Senate on the bill: Senators Mauzy, McKool, Bernal, Wallace and Kennard.

**Senate Bill 357 With
House Amendment**

Senator Mauzy called S. B. No. 357 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Committee Amendment No. 1

Amend S. B. No. 357, First Printing, by striking on line 33 the phrase "less than Five Thousand Dollars (\$5,000) nor".

The House amendment was read.

Senator Mauzy moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S. B. No. 357 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mauzy, McKool, Bernal, Wallace and Kennard.

**Senate Bill 938 With
House Amendment**

Senator Herring called S. B. No. 938 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Amendment No. 1

Amend S. B. 938 by adding the words "and for" between "by" and "the" of the first line of the item D of Section 3 on page 1 of the original bill.

The House amendment was read.

Senator Herring moved that the Senate concur in the House amendment.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally Watson

Senate Bill 40 With
House Amendment

Senator Brooks called S. B. No. 40 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Committee Amendment No. 1

Amend S. B. No. 40, first printing, by substituting "more" for "less" on line 30.

The House amendment was read.

Senator Brooks moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S. B. No. 40 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the

Senate on the bill: Senators Brooks, Jordan, Wallace, Grover and Schwartz.

Senate Bill 408 on Second Reading

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 408, A bill to be entitled "An Act re-enacting and amending Statutes; adding the seizure of vessels, vehicles or aircraft transporting dangerous drugs; authorizing the Texas Department of Public Safety to use forfeited vehicles, vessels or aircraft and expend State money for such use; and declaring an emergency."

The bill was read second time.

Senator Schwartz offered the following Committee Amendment to the bill:

Amend Senate Bill 408 by striking all below the enacting clause and substituting the following:

"Section 1. Chap. 300, Acts of the 54th Leg., Reg. Sess., 1955 (Art. 725d, Vernon's Texas Penal Code), is amended to read as follows:

"Section 1. It shall be unlawful within this State:

"(a) To transport, carry or convey any contraband narcotic in, upon or by means of any vessel, vehicle or aircraft or any occupants thereof;

"(b) To conceal or possess any contraband narcotics in or upon any vessel, vehicle or aircraft or occupants thereof;

"(c) To use any vessel, vehicle or aircraft or occupants thereof to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange or gift of any contraband narcotic.

"For purposes of this Act, "any contraband narcotic" shall mean any narcotic or drug, the use, manufacture, possession, control, sale, prescription, administering, dispensing or compounding of which is made illegal by the provisions of Acts of 1937, Chapter 169 as last amended by Acts of 1953, Chapter 328, compiled as Article 725b of the Penal Code; or of

Acts of 1953, Chapter 237, compiled as Article 725c of the Penal Code; or of Acts of 1949, Chapter 490, compiled as Article 726b of the Penal Code; or of Acts of 1959, Chapter 425, as amended, compiled as Article 726d of the Penal Code; or of any subsequently enacted law defining or prescribing illegal activities with narcotics or drugs.'

"Sec. 2. Chap. 300, Acts of the 54th Leg., Reg. Sess., 1955 (Art. 725d, Vernon's Texas Penal Code), is amended to read as follows:

"Sec. 2. Any vessel, vehicle or aircraft which is being used in violation of Section 1 of this Act, shall be seized and forfeited to the Texas Department of Public Safety, Narcotics Section, under the provisions of this Act and any vessel, vehicle or aircraft so seized and forfeited may be used by the Texas Department of Public Safety for any of its necessary duties and responsibilities and may be operated with money appropriated to the Texas Department of Public Safety for current operations; provided, no vessel, vehicle or aircraft used by a common carrier in such business shall be forfeited unless it be shown that the owner, master, pilot, conductor, driver, operator or other person in charge thereof was at the time of the alleged illegal act a consenting party or privy thereto; and provided further, no vessel, vehicle or aircraft shall be forfeited where it is shown that the illegal act has been committed by some person other than the owner thereof while such vessel, vehicle or aircraft was in possession of any person who acquired or retained such possession in violation of any law of this state or of the United States.'

"Sec. 3. Sec. 8, Chap. 300, Acts of the 54th Leg., Reg. Sess., 1955 (Art. 725d, Vernon's Texas Penal Code), is amended to read as follows:

"Sec. 8. (a) Except as provided in Subsection (b) of this section, all forfeited vessels, vehicles or aircraft shall be sold at a public auction under the direction of the County Sheriff after notice of sale as provided by law for other sheriff's sales. The proceeds of such sale shall be delivered to the District Clerk and shall be disposed of as follows:

"(1) To the bona fide lienholder, mortgagee or conditional vendor to the extent of his interest;

"(2) The balance, if any, after deduction of all storage and court costs, shall be forwarded by the District Clerk to the State Treasury for deposit in the General Revenue Fund.

"(b) The Texas Department of Public Safety is hereby authorized to use, maintain, repair, and operate any vehicle forfeited under the provisions of this Act if it is free from any interest of a bona fide lienholder, mortgagee, or conditional vendor; or the department may purchase any interest of a bona fide lienholder, mortgagee, or conditional vendor so that the vehicle can be released for department use. In either event the department is deemed to be the purchaser and the certificate of title shall be issued to it as required by Section 9 of this Act.'

"Sec. 4. Chap. 300, Acts of the 54th Leg., Reg. Sess., 1955 (Art. 725d, Vernon's Texas Penal Code), is amended by adding a new Section 8A to read as follows:

"Sec. 8A. (a) Any vessel, vehicle or aircraft seized under the provisions of this Act may be replevied by the owner thereof or lawful lienholder thereon upon execution by him of a good and valid bond with sufficient surety in a sum double the appraised value of the property replevied, which said bond shall be approved by the seizing officer and shall be conditioned to return said property to the custody of said officer on the day of trial of any suit for the forfeiture of such property to abide the judgment of the court.

"(b) Storage charges on any vessel, vehicle or aircraft accrued while the vehicle is stored at the request of a seizing officer of the Texas Department of Public Safety pending the outcome of the forfeiture suit brought under the provisions of this Act shall be paid by the Texas Department of Public Safety out of its appropriations if such vessel, vehicle or aircraft after final hearing shall be returned to the owner by action of the court.'

"Sec. 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The Committee Amendment was read and was adopted.

Senator Schwartz offered the following Committee Amendment to the bill:

Amend Senate Bill 408 by striking all above the enacting clause and substituting the following:

A bill to be entitled "An Act re-enacting and amending Sections 1, 2 and 8, Chap. 300, Acts of the 54th Leg., Reg. Sess., 1955 (Art. 725d, Vernon's Texas Penal Code); adding the seizure of vessels, vehicles or aircraft transporting dangerous drugs; authorizing the Texas Department of Public Safety to use forfeited vehicles, vessels or aircraft and expend State money for such use; authorizing the transfer of forfeited vehicles to the Texas Department of Public Safety; providing for a replevy bond; and declaring an emergency."

The Committee Amendment was read and was adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 408 on Third Reading

Senator Schwartz moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 408 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally

Watson

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 245 with House Amendments

Senator Moore called S. B. No. 245 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the following House amendments before the Senate:

Amendment No. 1

Amend S. B. No. 245 by striking all below the enacting clause and substituting the following:

Section 1. The commissioners court of every county in this state, the governing body of each hospital district, and the governing body of each city in this state with a population of 10,000 or more, according to the last preceding federal census, shall establish and maintain a uniform system of accounting whereby adequate and accurate records are compiled setting forth all the expenditures made by the county, city, or hospital district in connection with any of its welfare assistance programs.

Sec. 2. The State Comptroller of Public Accounts, with the advice and assistance of the Texas Department of Public Welfare and the State Auditor, shall prescribe a uniform system of accounting and records to be used by the counties, hospital districts, and cities in the performance of their duties as required by Section 1 of this Act. The accounting system used and the record maintained by the counties, hospital districts, or cities in connection with Section 1 of this Act must be approved by and done in accordance with the directions of the State Comptroller of Public Accounts.

Sec. 3. On the first day of January, 1972, and thereafter quarterly, the commissioners court of each county, the governing body of each hospital district, and the governing body of each city covered by the provisions of this Act shall cause to be filed with the State Comptroller of Public Accounts a report setting forth all ex-

penditures by the county, hospital district, or city in connection with welfare assistance programs participated in by the county, hospital district, or city. Such reports shall be submitted on forms prepared by the State Comptroller of Public Accounts and shall contain all such information as may be required by the State Comptroller of Public Accounts.

Sec. 4. All such reports filed with the State Comptroller of Public Accounts by the counties, hospital districts, and the cities shall be kept and maintained by the State Comptroller of Public Accounts and shall be available to such other agencies of the State of Texas as may have use for the information contained therein.

Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are declared to be severable.

Sec. 6. The fact that the state is in urgent need of accurate information as to the expenditures made by cities, counties, and hospital districts in their public welfare assistance programs, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2

Amend S. B. No. 245 by striking all above the enacting clause and substituting the following:

A bill to be entitled "An Act requiring every county, hospital district, and all cities with a population of 10,000 or more to establish a uniform system of accounting and record maintenance in connection with expenditures for all forms of welfare assistance or medically needy programs; providing that the State Comptroller of Public Accounts, with the advice and assistance of the Texas Department of Public Welfare and the State Auditor, shall prescribe the system of accounting to be used and approve the system used; providing for the filing of quarterly reports by the cities, counties, and hospital districts with the State Comptroller of

Public Accounts; providing for the use of such reports by state agencies; making other provisions relating thereto; providing for severability; and declaring an emergency."

The House amendments were read.

Senator Moore moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally Watson

Senate Bill 146 on Second Reading

On motion of Senator Mauzy and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 146, A bill to be entitled "An Act providing that in all actions brought to recover damages for personal injuries, injuries resulting in death, or injury to property, the contributory negligence of the person injured, or his agent, or the owner of the property, or person having control over the property, shall not be a complete bar to the recovery of damages; etc.; and declaring an emergency."

The bill was read second time and passed to engrossment by the following vote:

Yeas—19

Bates	Brooks
Beckworth	Hall
Bernal	Harrington
Bridges	Hightower

Jordan	Schwartz
Kennard	Snelson
Kothmann	Wallace
Mauzy	Wilson
McKool	Word
Patman	

Nays—7

Aikin	Moore
Creighton	Ratliff
Harris	Sherman
Herring	

Absent

Blanchard	Grover
Christie	

Absent—Excused

Connally	Watson
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Reports of Standing Committees

By unanimous consent, Senator Bates submitted the following report for the Committee on Transportation:

H. B. No. 759 (Floor report).

By unanimous consent, Senator Creighton submitted the following reports for the Committee on Water and Conservation:

H. B. No. 1146 (Floor report).

H. B. No. 1108 (Floor report).

H. B. No. 1339.

By unanimous consent, Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

H. B. No. 1636 (Floor report).

H. B. No. 1601 (Floor report).

Vote on Final Passage of House Bill 889 Reconsidered

On motion of Senator Kothmann and by unanimous consent, the vote by which H. B. No. 889 was finally passed was reconsidered.

Question—Shall H. B. No. 889 be finally passed?

The bill was again passed by the following vote:

Yeas—29

Aikin	Bernal
Bates	Blanchard
Beckworth	Bridges

Brooks	Mauzy
Christie	McKool
Creighton	Moore
Grover	Patman
Hall	Ratliff
Harrington	Schwartz
Harris	Sherman
Herring	Snelson
Hightower	Wallace
Jordan	Wilson
Kennard	Word
Kothmann	

Absent—Excused

Connally	Watson
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House Bill 1636 Ordered Not Printed

On motion of Senator Ratliff and by unanimous consent, H. B. No. 1636 was ordered not printed.

Vote on Final Passage of House Bill 976 Reconsidered

On motion of Senator Kothmann and by unanimous consent, the vote by which H. B. No. 976 was finally passed was reconsidered.

Question—Shall H. B. No. 976 be finally passed?

The bill was again passed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally	Watson
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(Senator Kennard in Chair.)

Senate Bill 975 on Second Reading

On motion of Senator Hightower and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 975, A bill to be entitled "An Act relating to reductions in the salaries of certain public employees for the purpose of effectuating annuity purchase agreements; etc.; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 975 on Third Reading

Senator Hightower moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 975 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally Watson

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally Watson

Senate Bill 903 on Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 903, A bill to be entitled "An Act requiring the Commissioner of Education, under certain conditions, to issue a Texas teacher's certificate upon request to persons holding valid teaching certificates of other states, and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 903 on Third Reading

Senator Aikin moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 903 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Wilson
Herring	Word
Hightower	

Absent—Excused

Connally Watson

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Beckworth
Bates	Bernal

Blanchard	Kothmann
Bridges	Mauzy
Brooks	McKool
Christie	Moore
Creighton	Patman
Grover	Ratliff
Hall	Schwartz
Harrington	Sherman
Harris	Snelson
Herring	Wallace
Hightower	Wilson
Jordan	Word
Kennard	

Absent—Excused

Connally Watson

Leave of Absence

Senator Grover was granted leave of absence for the remainder of today on account of important business on motion of Senator Hightower.

Senate Bill 308 on Second Reading

On motion of Senator Christie and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 308, A bill to be entitled "An Act repealing Article 38.21, Code of Criminal Procedure; amending Article 38.22, Code of Criminal Procedure; providing rules governing admission in evidence at the trial of a criminal case of the oral statements and admissions of guilt made by the accused; and declaring an emergency."

The bill was read second time.

Senator Christie offered the following Committee Amendment to the bill:

Amend Senate Bill No. 308 by striking Section 2 thereof and substituting the following:

Sec. 2. Article 38.22, Code of Criminal Procedure is hereby amended to read as follows:

"Article 38.22. WHEN ORAL STATEMENTS MAY BE USED

"Oral statements and admissions freely made by an accused while under arrest, or in jail or other place of confinement may be used in evidence against him in any criminal case if

"a. It is shown that the accused has prior to the making thereof re-

ceived from the person to whom the statement is made the warning that

"(1) He has the right to have a lawyer present to advise him either prior to any questioning or during any questioning;

"(2) If he is unable to employ a lawyer, he has a right to have a lawyer appointed to counsel with him prior to or during any questioning; and

"(3) He has the right to remain silent and not make any statement at all and that any statement he makes may be used in evidence against him at his trial; or

"b. The accused has at some time prior to the making thereof received from a magistrate the warning provided in Article 15.17; and

"c. The officer to whom such oral statement or admission is made files within 72 hours a written memorandum of such oral statement or admission with the official papers of the cause in the court where charges are then pending. If no charges have been filed within the 72 hour period, the officer to whom such oral statement or admission has been made must, within 96 hours, serve a copy of such memorandum upon the defendant either by personal delivery or by registered or certified mail addressed to the defendant at his last known address.

"(1) The defendant must knowingly, intelligently, and voluntarily waive these rights prior to and during the making of the statement.

"(2) Nothing contained herein shall preclude the admission of any statement made by the defendant in open court at his trial, or at any examining trial in compliance with Articles 16.03 and 16.04, or of any statement that is the res gestae of the arrest or of the offense.

"(3) In all cases where a question is raised as to the voluntariness of a statement or admission of an accused, the court must make an independent finding in the absence of the jury as to whether the statement or admission was made under voluntary conditions. If the statement or admission has been found to have been voluntarily made and held admissible as a matter of law and fact by the court in a hearing in the absence of the jury, the court must enter an order stating its findings, which order shall be filed

among the papers of the cause. Such order shall not be exhibited to the jury nor the finding thereof made known to the jury in any manner. Upon the finding by the judge as a matter of law and fact that the statement or admission was voluntarily made, evidence pertaining to the matter may be submitted to the jury and it shall be instructed that unless the jury believes beyond a reasonable doubt that the statement or admission was voluntarily made, the jury shall not consider the statement or admission for any purpose nor any evidence obtained as a result thereof. In any case where a motion to suppress the statement or admission has been filed and evidence has been submitted to the court on this issue, the court within its discretion, may reconsider such evidence in its finding that the statement or admission was voluntarily made and the same evidence submitted to the court at the hearing on the motion to suppress shall be made a part of the record the same as if it were being presented at the time of trial. However, the state or the defendant shall be entitled to present any new evidence on the issue of the voluntariness of the statement or admission prior to the court's final ruling and order stating its finding.

"(4) When the issue is raised by the evidence, the trial court shall appropriately instruct the jury, generally, on the law pertaining to such statement or admission."

The Committee Amendment was read and was adopted.

On motion of Senator Christie and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 308 on Third Reading

Senator Christie moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 308 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin

Bates

Beckworth	Kennard
Bernal	Kothmann
Blanchard	Mauzy
Bridges	McKool
Brooks	Moore
Christie	Patman
Creighton	Ratliff
Hall	Schwartz
Harrington	Sherman
Harris	Snelson
Herring	Wallace
Hightower	Wilson
Jordan	Word

Absent—Excused

Connally	Watson
Grover	

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Hall	Sherman
Harrington	Snelson
Harris	Wallace
Herring	Wilson
Hightower	Word

Absent—Excused

Connally	Watson
Grover	

Senate Bill 584 on Second Reading

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 584, A bill to be entitled "An Act permitting a church, religious society, veteran's organization, and other nonprofit charitable organizations to conduct lotteries for their benefit; etc.; and declaring an emergency."

The bill was read second time and passed to engrossment.

Record of Votes

Senators Word, Hall, Mauzy, Snelson, Hightower, Ratliff, Blanchard, Beckworth and Moore asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senate Bill 584 on Third Reading

Senator Schwartz moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 584 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—23

Aikin	Kennard
Bates	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Harrington	Sherman
Harris	Wallace
Herring	Wilson
Jordan	

Nays—5

Beckworth	Snelson
Hall	Word
Hightower	

Absent—Excused

Connally	Watson
Grover	

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Word, Hall, Mauzy, Snelson, Hightower, Ratliff, Blanchard, Beckworth, Moore and Sherman asked to be recorded as voting "Nay" on the final passage of the bill.

Senate Bill 339 on Second Reading

On motion of Senator Harrington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 339, A bill to be entitled "An Act relating to the fees to be paid to the Board of Barber Examiners for renewal and issuance of certificates of registration and examinations; etc.; and declaring an emergency."

The bill was read second time.

Senator Harrington offered the following Committee Amendment to the bill:

Amend S. B. No. 339 as follows:

Strike "Ten Dollars (\$10)" and insert therefor "Seven Dollars (\$7)" on line 26, page 1;

(2) Strike "One Thousand Dollars (\$1,000)" and insert therefor "Five Hundred Dollars (\$500)" on line 34, page 2;

(3) Strike "Three Hundred Dollars (\$300)" and insert therefor "One Hundred Fifty Dollars (\$150)" on line 42, page 2;

(4) Strike "Thirty Dollars (\$30)." and insert therefor "Twenty-five Dollars (\$25) if renewed within the first year of the biennium or Fifteen Dollars (\$15) if renewed within the second year of the biennium." on line 17, page 3;

(5) Strike lines 22 and 23, page 3, and insert therefor "affidavit, and by paying an examination fee of Ten Dollars (\$10), passing a satisfactory examination conducted by the Board, and paying the original license fee.";

(6) Strike "Twenty-five Dollars (\$25)" and insert therefor "Ten Dollars (\$10)" on line 37, page 3;

(7) Strike "Twelve Dollars and Fifty Cents (\$12.50)" and insert therefor "Five Dollars (\$5)" on line 41, page 3.

The Committee Amendment was read and was adopted.

On motion of Senator Harrington and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Record of Votes

Senators Bridges and Sherman asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senate Bill 339 on Third Reading

Senator Harrington moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 339 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Kennard
Bates	Kothmann
Beckworth	Mauzy
Bernal	McKool
Blanchard	Moore
Brooks	Patman
Christie	Ratliff
Creighton	Schwartz
Hall	Sherman
Harrington	Snelson
Harris	Wallace
Herring	Wilson
Hightower	Word
Jordan	

Nays—1

Bridges

Absent—Excused

Connally	Watson
Grover	

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Bridges and Sherman asked to be recorded as voting "Nay" on the final passage of the bill.

Memorial Resolutions

S. R. No. 1170—By Senator Blanchard: Memorial resolution for Charles Ralph Kirk.

S. R. No. 1171—By Senator Blanchard: Memorial resolution for Mrs. Lucy Oren.

Welcome and Congratulatory Resolutions

H. C. R. No. 137—Extending congratulations to Air Force ROTC Detachment at Texas Tech University.

S. R. No. 1169—By Senator McKool: Extending commendation to

Keith Fagerquist for his superior scholastic achievement.

S. R. No. 1172—By Senator Blanchard: Honoring Miss Mary Dunn on her selection as "Texas Music Teacher of the Year."

S. R. No. 1173—By Senator Herring: Expressing the wish that Freddie Joe Steinmark soon be returned to health (Amended).

S. R. No. 1174—By Senator Brooks: Designating Stephen Hayes Knippel as Honorary Page of the Senate of the 62nd Legislature.

S. R. No. 1175—By Senator Schwartz: Extending welcome to Mr. and Mrs. Melvin Maltz.

S. R. No. 1176—By Senator Wilson: Extending commendation to Coach Jack Whitton of Pineland High School.

S. R. No. 1177—By Senator Wilson: Extending congratulations to outstanding accomplishments of the Diboll Lumberjacks championship track team.

S. R. No. 1178—By Senator Wilson: Extending commendation to Livingston Lions Girls track team.

S. R. No. 1179—By Senator Wilson: Extending congratulations to Lufkin Panthers championship track team.

S. R. No. 1180—By Senator Schwartz: Extending welcome to Mrs. Marie McSwain, et al.

Adjournment

On motion of Senator Aikin the Senate at 5:00 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

APPENDIX

Sent to Governor

May 10, 1971

S. B. No. 111.

S. B. No. 160.

S. B. No. 457.

S. B. No. 225.